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DOT Issues Scathing Internal Report of NHTSA's Defect Investigation Processes: National Highway Traffic Safety Administration

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In the wake of GM's ignition-switch, the ***Secretary of Transportation, Anthony R. Foxx***, directed an investigation into ***NHTSA's (National Highway Traffic Safety Administration)*** defect investigation policies and procedures. Specifically, Secretary Foxx requested that the U.S. Department of Transportation's Office of the Inspector General (OIG) assess NHTSA's Office of Defects Investigation's (ODI) procedures for (1) collecting vehicle safety data, (2) analyzing the data and identifying potential safety issues, and (3) determining which of these issues warrant further investigation. On June 22, 2015, the Department of Transportation released the OIG's report titled "Inadequate Data and Analysis Undermine NHTSA's Efforts to Identify and Investigate Vehicle Safety Concerns."

While tacitly acknowledging that ODI is understaffed to tackle the large volume of information that flows into the agency, the OIG report points to a number of breakdowns in ODI's processes and policies, including the following:

- Early-warning reporting (EWR) requirements are broken down into 24 broad categories, which frequently result in inconsistent categorizations of similar issues among manufacturers and even within a particular manufacturer's reports.
- NHTSA does not follow standard statistical practice when analyzing EWR data. Specifically, NHTSA does not consistently identify what data test results would be in the absence of a safety defect, which prevents NHTSA from differentiating patterns that represent random variation from those that show a significant deviation.
- NHTSA does not regularly assess the performance of its data analysis and has not updated its statistical tests to keep pace with recent developments in data analytics.
- NHTSA offers little guidance to consumers on the type of information to include when submitting complaints.

- NHTSA relies heavily on consumer complaints in determining which issues to pursue, yet it does not thoroughly screen these complaints.

- While each consumer complaint is at least initially reviewed for potential safety concerns, a single reviewer performs the initial screen to determine potential issues based solely on the initial screener's professional experience, judgment, and informal guidance.

- Eight advanced screeners have access to a variety of data sources, but many do not consistently use these sources.

- NHTSA's pre-investigative staff lacks the training and supervision to effectively analyze data. In particular, staff charged with interpreting statistical test results for EWR data have no training or background in statistics and the office's budget does not allow them to attend training to stay current with developments in vehicle technology.

- A lack of documentation regarding complaints, proposed investigations, and other pre-investigative issues hamper the agency's ability to review prior agency determinations.

- In general, ODI considers three factors when considering an investigation into a potential safety-related defect: (1) rate of consumer complaints, (2) severity of the potential safety issue, and (3) identification of a potentially defective vehicle component or root cause. Yet, NHTSA lacks consensus and detailed guidance on how screeners should consider these factors.

- NHTSA's investigation decisionmaking process lacks transparency and accountability.

- Decisions by the Defects Assessment Panel lack documented justifications for not investigating an issue.

- Despite putting an issue into monitoring status, NHTSA does not systematically monitor the potential issue.

The OIG's report concluded that weaknesses in NHTSA's training and supervision of pre-investigation staff and its processes for identifying potential safety concerns constrain NHTSA's ability to adequately meet its safety mission.

The OIG recommended 17 steps the agency should take to improve these processes and procedures:

1. Develop and implement a method for assessing and improving the quality of EWR data.

2. Issue guidance or best practices on the format and information that should be included in non-dealer field reports to improve consistency and usefulness.

3. Require manufacturers to develop and adhere to procedures for complying with EWR requirements and require ODI to review these procedures periodically.

4. Expand current data verification processes to assess manufacturers' compliance with regulations to submit complete and accurate EWR data, including how manufacturers assign

vehicle codes to specific incidents and how they determine which incidents are reportable.

5. Develop and implement internal guidance that identifies when and how to use oversight tools to enforce manufacturers' compliance with EWR data requirements.

6. Provide detailed and specific guidance to consumers on the information they should include in their complaints, as well as the records they should retain (such as police reports and photographs) in the event that ODI contacts them for more information.

7. Develop an approach that will determine which EWR test scores provide statistically significant indications of potential safety defects.

8. Periodically assess the performance of the EWR data tests using out-of-sample testing.

9. Institute periodic external expert reviews of the statistical tests used to analyze EWR data to ensure that these methods are up-to-date and in keeping with best practices.

10. Implement a supervisory review process to ensure that all EWR data are analyzed according to ODI policies and procedures.

11. Develop and implement a quality control process to help ensure complaints are reviewed thoroughly and within a specified timeframe.

12. Update standardized procedures for identifying, researching, and documenting safety defect trends that consider additional sources of information beyond consumer complaints, such as special crash investigation reports and EWR data.

13. Document supervisory review throughout the pre-investigative process including data screening.

14. Evaluate the training needed by pre-investigative staff to identify safety defect trends; and develop and implement a plan for meeting identified needs.

15. Develop and implement guidance on the amount and type of information needed to determine whether a potential safety defect warrants an investigation proposal and investigation.

16. Develop a process for prioritizing, assigning responsibility, and establishing periodic reviews of potential safety defects that ODI determines should be monitored.

17. Document and establish procedures for enforcing timeframes for deciding whether to open investigations and establish a process for documenting justifications for these decisions.

Greater transparency on what NHTSA views as a potential safety-related defect would be a welcome change for the public and the industry. But the Inspector General's concerns related to data submitted by manufacturers to NHTSA should alert the industry to a need to review their policies.

Of particular concern to manufacturers are the recommendations to expand data verification to assess manufacturer's compliance with regulatory submissions. Manufacturers would be wise to audit their collection of regulatory filings to ensure data is complete and consistently coded. Future

enforcement actions and rulemakings related to EWR and other data submitted under 49 CFR Part 579 may be on the horizon.

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