



**U.S. Department of Justice**

Office of Legislative Affairs

---

*Office of the Assistant Attorney General*

*Washington, DC 20530*

The Honorable Elizabeth Warren  
United States Senate  
Washington, DC 20510

Dear Senator Warren:

Thank you for your letter to the Department of Justice (Department), dated October 2, 2024, in which you referenced various safety issues involving The Boeing Company (Boeing) and called on the Department to take action against individual corporate personnel. As set forth below, in connection with the two Boeing 737 MAX 8 crashes in 2018 and 2019 and related conduct, the Department has filed felony charges against Boeing, secured a proposed guilty plea to the most serious provable offense, and requested a sentence that imposes both the statutory maximum fine and an independent compliance monitor. In addition, as part of that investigation, the Department prosecuted the former Boeing 737 MAX Chief Technical Pilot, an effort that ended in an acquittal.

To begin, the Department takes very seriously any allegation that a company has violated federal criminal law, especially when the conduct involves or is related to danger to the public. When the Department learns of such allegations, it deploys all appropriate investigative resources and, under Department policy, focuses first and foremost on identifying culpable individuals for potential criminal prosecution. We focus on individuals not simply because it is required by Department policy but because doing so holds the most responsible parties accountable for their illegal activity—increasing deterrence, protecting the public, and bolstering the public’s confidence that no one is above the law.<sup>1</sup>

Acting on our commitment to individual criminal accountability, the Department in 2021 restored its 2015 policy requiring corporations to disclose to the government all relevant, non-privileged facts about individual misconduct to be eligible for cooperation credit. The Department instructs its prosecutors to pursue provable criminal charges against individuals, especially when the conduct implicates high-level corporate officers. The Department also requires that any prosecutor who seeks to resolve a corporate criminal matter without bringing individual charges before or at the same time as that resolution must obtain advance approval of

---

<sup>1</sup> See Justice Manual § 9-28.010 (“One of the most effective ways to combat corporate misconduct is by holding accountable all individuals who engage in wrongdoing. Such accountability deters future illegal activity, incentivizes changes in corporate behavior, ensures that the proper parties are held responsible for their actions, and promotes the public’s confidence in our justice system. Prosecutors should focus on wrongdoing by individuals from the very beginning of any investigation of corporate misconduct.”).

the United States Attorney or Assistant Attorney General to whom they ultimately report.<sup>2</sup> The Department has codified those reforms in the Justice Manual, which publicly lays out Department policies and directs employees in their work. These steps ensure that prosecutors use all available tools to hold individuals, including corporate executives, responsible for misconduct.

The Department's decisions on whether to prosecute individuals are—and must always be—based on the facts and the law. The *Principles of Federal Prosecution*, codified in the Justice Manual, require prosecutorial decisions to be made “rationally and objectively based on an individualized assessment of the facts and circumstances of each case.”<sup>3</sup> This bedrock principle binds the Department in all investigations and prosecutions, including as we aggressively pursue allegations of serious wrongdoing by a corporation and its executives, employees, and agents.<sup>4</sup>

The Department's filing of criminal charges against Boeing in July 2024 and the accompanying proposed guilty plea by the company constitute a strong and significant criminal resolution to a tragic set of facts federal criminal law does not map neatly onto. The proposed resolution pending with the Court would require Boeing to plead guilty to the most serious criminal offense the Department could prove at trial, to pay the statutory maximum fine associated with that offense, and to institute significant compliance improvements, to include the imposition of an independent compliance monitor. The resolution is consistent with the Department's commitment to ensuring corporate accountability and upholding our obligations under the law and Department policy.

The history of this case illustrates the challenges posed by the relevant facts and applicable law. In 2019, the Department opened its initial criminal investigation into the circumstances surrounding the fatal crashes of two Boeing 737 MAX 8 airplanes: the October 29, 2018, crash of Lion Air Flight 610, and the March 10, 2019, crash of Ethiopian Airlines Flight 302. The investigation focused on, among other things, whether an electronic flight control system designed by Boeing—known as the Maneuvering Characteristics Augmentation System (MCAS)—contributed to one or both crashes. As part of the investigation, the Department also examined whether Boeing employees misled the Federal Aviation Administration's Aircraft Evaluation Group (FAA AEG) about the amount of additional training pilots should receive before flying 737 MAX 8 planes equipped with the MCAS system.

---

<sup>2</sup> JM § 9-28.210.

<sup>3</sup> JM § 9-27.001.

<sup>4</sup> Your October 2024 letter noted several publicly reported and more recent allegations about Boeing's manufacturing processes, safety protocols, and corporate culture. Consistent with longstanding policy that protects the effectiveness and integrity of ongoing work, the Department cannot provide nonpublic information or confirmation regarding what if any investigative steps the Department has taken or will take in response to public reporting or other information we develop. We can, however, provide the information herein regarding the investigation and subsequent criminal prosecutions arising from the two 737 MAX 8 crashes in 2018 and 2019 that may provide insight, as well as information about the significant compliance enhancements that Boeing will be required to undertake if the Court accepts the July 2024 felony plea agreement that the Department reached with the company in that case.

On January 7, 2021, the Department initially resolved its criminal investigation of Boeing through a deferred prosecution agreement with the company (January 2021 DPA). Under the agreement, the Department charged Boeing with conspiring to defraud the United States<sup>5</sup>—specifically, to deceive the FAA AEG in the exercise of its regulatory decision-making with respect to setting the requisite level of pilot training for the 737 MAX. At that time, the Department agreed to defer prosecution for three years if Boeing satisfied certain terms and conditions, including enhancements to its corporate compliance program. The Department determined that it could *not* charge Boeing with a criminal offense directly related to the 2018 and 2019 crashes based on the relevant facts and applicable law and consistent with the *Principles of Federal Prosecution*. As part of the January 2021 DPA, Boeing agreed to pay a penalty of \$243.6 million, the amount the company saved in training costs through its fraud conspiracy—and the highest gain or loss the Department could prove resulted from Boeing’s criminal conduct.

In October 2021, the Department obtained an indictment charging Boeing’s former 737 MAX Chief Technical Pilot for his role in defrauding the FAA AEG regarding MCAS-related training. The indictment charged the former Chief Technical Pilot with two counts of fraud involving aircraft parts<sup>6</sup> and four counts of wire fraud.<sup>7</sup> Shortly before trial, the Court dismissed the aircraft-part fraud counts, holding that MCAS did not meet the statutory definition of an aircraft “part.”<sup>8</sup> At trial, a jury acquitted the defendant of the remaining wire fraud counts.

In May 2024, the Department notified Boeing that the company had breached the January 2021 DPA’s compliance obligations. In arriving at this determination, the Department concluded that Boeing violated the January 2021 DPA by failing to sufficiently design, implement, and enforce a compliance and ethics program to prevent and detect violations of the U.S. fraud laws throughout its operations. Pursuant to the terms of the January 2021 DPA, Boeing’s breach meant that the Department could proceed with a prosecution. In assessing whether and how to prosecute Boeing, the Department carefully considered the evidence it had collected to that point, as well as additional investigative steps. All told, the Department conducted approximately 200 interviews and related contacts with more than 120 witnesses and collected more than 15 million documents.<sup>9</sup>

According to the Criminal Division, the Department based its determination to prosecute Boeing for the charged conspiracy offense on the evidentiary record, the applicable law, and the *Principles of Federal Prosecution*, which compelled several important conclusions:

- The most serious, readily provable criminal charge that the Department can bring against Boeing is conspiracy to defraud the FAA AEG—the offense to which the Department has now secured a proposed guilty plea from Boeing.<sup>10</sup>

---

<sup>5</sup> This charge alleged a violation of 18 U.S.C. § 371.

<sup>6</sup> These charges alleged violations of 18 U.S.C. § 38(a)(1)(C).

<sup>7</sup> These charges alleged violations of 18 U.S.C. § 1343.

<sup>8</sup> *United States v. Forkner*, 584 F. Supp. 3d 180, 186-89 (N.D. Tex. 2022).

<sup>9</sup> Gov’t’s Consol. Resp. at 9, *United States v. Boeing Co.*, 4:21-cr-00005 (N.D. Tex. Aug. 14, 2024), Dkt. 245.

<sup>10</sup> This charge alleged a violation of 18 U.S.C. § 371.

- The Department cannot bring charges or obtain convictions for two more serious federal charges: manslaughter<sup>11</sup> and aircraft-part fraud resulting in death.<sup>12</sup> Federal manslaughter charges are not legally available because neither of the 737 MAX 8 crashes occurred within the “special maritime and territorial jurisdiction of the United States,”<sup>13</sup> a necessary element of the offense. A prosecution for aircraft-part fraud is not viable in light of the Court’s dismissal of such charges against the former 737 MAX Chief Technical Pilot in 2022 and its holding that MCAS does not meet the statutory definition of an aircraft “part.”<sup>14</sup>
- The statutory maximum criminal fine that Boeing faces for the fraud conspiracy is \$487.2 million, equal to twice the company’s cost-savings arising from its fraudulent statements to the FAA AEG regarding MCAS-related training. Alternative calculations of larger fines are not supported by the facts or applicable law.<sup>15</sup>
- Under the law, restitution is the primary means for crime victims to recover losses. If the Court accepts the proposed guilty plea, the Court will determine what restitution Boeing owes to the families of the crash victims based on a preponderance of the evidence standard.
- An independent compliance monitor is needed to ensure Boeing implements necessary reforms to its compliance and ethics programs. This is based on the Department’s conclusion that, among other compliance failures, Boeing failed to “create and foster a culture of ethics and compliance with the law in its day-to-day operations” during the period covered by the January 2021 DPA, including by prioritizing the movement of airplanes through the factory at the expense of mitigating known manufacturing and quality risks.<sup>16</sup> And this monitorship must be carefully scoped to ensure Boeing implements these required reforms without undermining the FAA’s critical role as the company’s primary domestic safety regulator.

Based on these conclusions, in July 2024, the Department notified Boeing that it was in breach of the January 2021 DPA and that the Department intended to pursue a criminal prosecution. Boeing then agreed to plead guilty to the most serious readily provable offense, pay the statutory maximum fine of \$487.2 million, and retain an independent compliance monitor for three years, while also committing to pay all lawful restitution to the families of the crash victims. To help further prevent similar misconduct in the future, the Department also required Boeing to make a legally binding commitment to invest \$455 million to strengthen its

---

<sup>11</sup> This offense is codified at 18 U.S.C. § 1112(b).

<sup>12</sup> This offense is codified at 18 U.S.C. § 38(a) and (b)(3).

<sup>13</sup> 18 U.S.C. § 1112(b); *see id.* § 7 (defining that phrase).

<sup>14</sup> *See* Gov’t’s Consol. Resp. at 9, *Boeing*, Dkt. 245.

<sup>15</sup> Pecuniary losses suffered by victims’ families or by Boeing’s airline customers that were forced to ground all 737 MAX aircraft following the second crash do not meet the legal criteria for inclusion in the statutory maximum criminal fine.

<sup>16</sup> *See* Factual Basis for Breach, *United States v. Boeing Co.*, 4:21-cr-00005 (N.D. Tex. July 24, 2024), Dkt. 221-1 (Attachment A-1).

compliance, safety, and quality programs. And the Department required Boeing's Board of Directors to meet with the families of the crash victims to hear directly from them about the impact of the company's criminal conduct and how the company can improve its compliance and safety practices and culture.<sup>17</sup> The proposed guilty plea agreement has been submitted to the Court for review and potential acceptance.

In sum, the plea agreement with Boeing ensures significant accountability for the most serious criminal charge the Department can prove the company committed in connection with MCAS, consistent with the facts and law. The plea agreement does not release any Boeing executives or any other individual from any potential criminal liability in connection with MCAS or any other conduct. The Department must adhere to its obligations under the *Principles of Federal Prosecution* to make decisions and pursue cases based on the facts and the law.

We hope this information is helpful. Please do not hesitate to contact this office if we may provide additional assistance regarding this or any other matter.

Sincerely,

**CARLOS  
URIARTE** Digitally signed by  
CARLOS  
URIARTE  
Date: 2024.11.15  
14:10:54 -05'00'

Carlos Felipe Uriarte  
Assistant Attorney General

---

<sup>17</sup> In addition, Boeing's compliance enhancements will help to ensure that Boeing provides the FAA with accurate information in the future, allowing the FAA to more effectively carry out its own mandate as Boeing's primary domestic safety regulator. Gov't's Consol. Resp. at 40-41, *Boeing*, Dkt. 245.