



U.S. Department of Justice

Criminal Division

Fraud Section

Washington, D.C. 20530

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Re: *United States v. The Boeing Company*
Court Docket 4:21-CR-005-O (N.D. Tex.)

To Whom It May Concern:

We are contacting you because you have been determined to be a crime victim pursuant to a court order dated October 21, 2022, in *United States v. The Boeing Company*, a federal criminal case pending in the United States District Court for the Northern District of Texas. This case is being jointly handled by the U.S. Department of Justice's Criminal Division, Fraud Section, and the U.S. Attorney's Office for the Northern District of Texas (collectively, the "Department"). Crime victims are entitled to certain rights and services, as described further in this letter. As a victim witness professional, my role is to assist you with information and services during the pendency of the above-captioned case.

As you know, the Department and The Boeing Company ("Boeing") entered into a Deferred Prosecution Agreement ("DPA") that was filed in the Northern District of Texas on January 7, 2021. The DPA expired on January 7, 2024. Pursuant to Paragraph 25 of the DPA, the Department had six months from the end of the term of the DPA to make a final evaluation of Boeing's compliance with the terms of and obligations under the DPA. The Department determined on May 14, 2024, that Boeing breached its obligations under DPA Paragraphs 21, 22, and 26(d), and DPA Attachment C, including Paragraphs 1, 3, 4, and 5 of that Attachment, by failing to design, implement, and enforce a compliance and ethics program to prevent and detect violations of the U.S. fraud laws throughout its operations. For failing to fulfill completely the terms of and obligations under the DPA, Boeing is subject to prosecution by the United States for any federal criminal violation of which the United States has knowledge, including, but not limited to, the offense described in Paragraph 1 of the DPA and charged in the one-count Criminal Information that accompanied the DPA or violations related to the DPA's Statement of Facts.

The Government held a conferral session on June 30, 2024, to which it invited you and the other families of the victims of the Lion Air Flight 610 and Ethiopian Airlines Flight 302 airplane crashes (“families”), as well as Boeing’s airline customers that purchased the 737 MAX (“airline customers”). During the conferral, the Government shared—before it told Boeing—that it had decided to prosecute Boeing and to offer a plea agreement, and sought feedback on the terms of the proposed plea agreement. The proposed plea agreement was based in part on the feedback that the Government had previously received during conferral sessions and communications with the families and airline customers, including a conferral session with the families on May 31, 2024, in which the Government sought input on whether to prosecute Boeing and the potential terms of a sentence if the Company was convicted pursuant to a plea agreement or at trial. And after the June 30th conferral session, the Government further modified the proposed plea agreement based in part on feedback provided during that session.

The Government will be informing the Court later today that the Government and Boeing have agreed in principle to a plea agreement that will resolve this case. Below is an overview of material terms of the agreement in principle, which are not final until memorialized in a written plea agreement approved by the Government and Boeing’s Board of Directors and submitted to the Court for acceptance. Consistent with the Government’s standard practice in criminal cases against corporations, the parties will be respectfully asking the Court to accept the proposed plea agreement under Federal Rule of Criminal Procedure 11(c)(1)(C).

a. Charge: Boeing will plead guilty to the offense charged in the pending one-count Criminal Information, conspiracy to defraud the United States, specifically, the lawful function of the Federal Aviation Administration Aircraft Evaluation Group, in violation of 18 U.S.C. § 371 (ECF No. 1).

b. Scope of criminal release: Boeing will not be charged with any other criminal offense related to the conduct described in the DPA Statement of Facts (ECF No. 4). The plea agreement will not provide Boeing with immunity for any other conduct, including any conduct that may be the subject of any ongoing or future Government investigation of the Company.

c. Criminal fine: The Government will allege and Boeing will agree on the amount the Company derived in pecuniary gain from the offense of conviction (\$243.6 million), thereby increasing the statutory maximum fine to twice that amount, pursuant to the Alternative Fine Act, 18 U.S.C. § 3571(d), and consistent with the Government’s burden to allege and prove beyond a reasonable doubt such pecuniary gain (or loss caused), as provided by *Apprendi v. New Jersey*, 530 U.S. 466 (2000), and *Southern Union Co. v. United States*, 567 U.S. 343 (2012). Thus, Boeing will be subject to the maximum criminal fine for the charged offense, which is twice the Company’s proven pecuniary gain from the offense, that is, \$487.2 million. Pursuant to Paragraph 11 of the DPA, the new plea agreement will recommend that when imposing the sentence, the Court credit the \$243.6 million criminal monetary penalty Boeing previously paid pursuant to the DPA, with the net result being that Boeing will have to pay another \$243.6 million fine.

d. Restitution: The plea agreement will stipulate that for the offense of conviction, restitution is discretionary under 18 U.S.C. § 3663. The plea agreement will allow the Court to determine the restitution amount for the families in its discretion, consistent with

applicable legal principles. The plea agreement will further provide that no restitution should be ordered paid to Boeing's airline customers, who the Court has not ruled were directly and proximately harmed by the charged offense.¹ Boeing will retain the right to appeal any restitution order it believes was not legally imposed.

e. Forfeiture: Forfeiture is not applicable to the offense of conviction.

f. Probation: Boeing will serve a term of probation, during which it will be subject to standard probation terms, *e.g.*, not committing any violations of federal, state, or local criminal law, as well as three special conditions of probation described below. One of those conditions will be supervision by an independent compliance monitor. Probation will run through the conclusion of the monitor's term, which will be three years. Because it will take time to select the monitor, probation will run longer than three years.

i. First Special Condition of Probation: As requested by the families, Boeing's Board of Directors will meet with the families of the crash victims;

ii. Second Special Condition of Probation: Consistent with the request by the families that Boeing improve its compliance and safety programs, Boeing will make a sustained monetary investment in its compliance and safety programs, specifically at least approximately \$455 million over the term of probation, which, on an annualized basis, is an amount equal to at least approximately 75% more than the Company's expenditure on compliance in fiscal year 2024; and

iii. Third Special Condition of Probation: Boeing will be subject to an independent compliance monitor for three years. The Government will select and oversee the independent compliance monitor. With respect to selection, the Government will post on its public website a request for proposals from potential monitor candidates, and, with feedback from Boeing, select a monitor that meets the specific qualifications articulated in the public posting and the general qualifications articulated in the Criminal Division's Revised Memorandum on Selection of Monitors in Criminal Division Matters. The Government will notify the Court under seal of its intent to select a certain candidate; and if, after 10 days, the Court does not raise concerns, the Government will finalize the selection and appoint the monitor. The monitor will prepare a confidential annual report for the Government, and file on the public court docket an executive summary of that annual report.

The Government understands that at least several families intend to request that the Court not accept this (or any) plea agreement, and to that end, these families have requested a schedule to submit briefs in advance of a plea hearing to explain their position. The Government intends to confer with counsel for the families in an effort to agree on a briefing schedule, with the aim to submit a proposal to the Court by July 12, 2024. Finally, the parties will be requesting that the Court postpone issuing a trial scheduling order at least until July 12, 2024.

¹ This provision would not impact any rights the airline customers may have to assert civil claims against Boeing, or Boeing's ability to defend against such claims, or impact the terms of the underlying DPA that provided for an Airline Compensation Amount of \$1.7 billion, which was satisfied years ago.

Additional Information

Because charges have been filed in this case in federal court, victims of the charges filed are entitled to the following rights, according to Crime Victims' Rights Act (CVRA), Title 18, United States Code, Section 3771: (1) The right to be reasonably protected from the accused; (2) The right to reasonable, accurate, and timely notice of any public court proceeding, or any parole proceeding, involving the crime or of any release or escape of the accused; (3) The right not to be excluded from any such public court proceeding, unless the court, after receiving clear and convincing evidence, determines that testimony by the victim would be materially altered if the victim heard other testimony at that proceeding; (4) The right to be reasonably heard at any public proceeding in the district court involving release, plea, sentencing, or any parole proceeding; (5) The reasonable right to confer with the attorney for the Government in the case; (6) The right to full and timely restitution as provided in law; (7) The right to proceedings free from unreasonable delay; (8) The right to be treated with fairness and with respect for the victim's dignity and privacy; (9) The right to be informed in a timely manner of any plea bargain or deferred prosecution agreement; and (10) The right to be informed of the rights under this section and the services described in section 503(c) of the Victims' Rights and Restitution Act of 1990 (34 U.S.C. § 20141(c)) and provided contact information for the Office of the Victims' Rights Ombudsman of the Department of Justice. Victims may seek the advice of an attorney with respect to these rights.

In addition, a victim of a federal crime is entitled to services under the Victims' Rights and Restitution Act (VRRRA), including notification of court events. For further details, please refer to Title 34, United States Code, Section 20141 or the VRRRA link posted at <https://www.notify.usdoj.gov>.

We will continue to provide you with notifications and services unless you tell us not to. We will make our best efforts to ensure you are provided the rights and services to which you are entitled. You may contact the Victim/Witness Coordinator at the office listed above if you have questions about the progress of your case, your rights or the services to which you are entitled, or how you can assert them during the proceedings. If you believe that a Justice Department employee has not provided you with these rights, you may file a complaint with the Justice Department's Victims' Rights Ombudsman. For more information, go to <https://www.justice.gov/usao/office-victims-rights-ombuds> If you have questions about filing a complaint against an employee, you may contact the Ombudsman by email at usao.VictimOmbudsman@usdoj.gov. Questions concerning this case should be directed to the office listed above.

While our office cannot act as your attorney or provide you with legal advice, you can seek the advice of an attorney with respect to the rights above or other related legal matters.

As always, a defendant is presumed innocent until proven guilty and that presumption requires both the Court and our office to take certain steps to ensure that justice is served.

If you want to inform the prosecutor of your views regarding any other aspect of the case, please contact us and we will put you in touch with the prosecutor.

If you have any questions about this notice or want to talk to us directly, please call us toll-free at 1-888-549-3945 or email us at victimassistance.fraud@usdoj.gov.

Sincerely,

Victim-Witness Unit
Fraud Section, Criminal Division
Department of Justice