

United States Senate

WASHINGTON, DC 20510

July 8, 2026

The Honorable Todd Blanche
Acting Attorney General
United States Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Acting Attorney General Blanche:

I write to demand answers about the decision to drop a major criminal case involving contaminated baby formula. On June 28, 2026, the Wall Street Journal reported that a multiyear criminal investigation by the Department of Justice (DOJ) into Abbott Laboratories (Abbott) yielded significant evidence and a recommendation of charges, yet was dropped by “top decision makers.”¹ On July 6, 2026, Bloomberg Government reported that the Deputy Attorney General’s Office—that you were leading at that time—overruled the Criminal Division’s decision to charge the company and its executives.² A DOJ spokeswoman apparently confirmed the criminal probe was closed, saying “criminal charges would have been heavy handed.”³ That is a concerning admission: under your management, DOJ does not consider a case involving deadly risks to medically sensitive infants, after a recommendation of a felony charge, to be worthy of criminal prosecution. If prosecuting cases involving the risk of injuries or death to premature infants are not a priority enforcement matter, I have questions about what priorities the DOJ considers worthy of pursuing.

This pattern of protecting corporations over people has proliferated during your tenure as Deputy Attorney General and Acting Attorney General, and is present in this investigation that DOJ supervisors “thought [] was a good case.”⁴ As DOJ attorneys wrote in a February 2026 public filing, “Abbott repeatedly lied to the U.S. Department of Agriculture[] (‘USDA’) and State agencies” in a “years-long and widespread failure to manufacture compliant powder infant formula” involving the dangerous *Cronobacter* bacteria.⁵ Assistant Attorney General Tysen

¹ Dave Michaels, Sadie Gurman, and Lis Essley Whyte, *The Baby Formula Probe Produce a Pile of Evidence. Then the DOJ Dropped the Case*, WALL STREET JOURNAL, June 28, 2026, www.wsj.com/us-news/law/the-baby-formula-probe-produced-a-pile-of-evidence-then-the-doj-dropped-the-case-cdc68716.

² Ben Penn, *DOJ Closing Abbott Labs Case Spurs Wider Corporate Crime Retreat*, BLOOMBERG GOVERNMENT, July 6, 2026, <https://news.bloomberglaw.com/us-law-week/doj-closing-abbott-labs-case-spurs-wider-corporate-crime-retreat>.

³ Dave Michaels, et al., *The Baby Formula Probe Produce a Pile of Evidence. Then the DOJ Dropped the Case*, WALL STREET JOURNAL, June 28, 2026, www.wsj.com/us-news/law/the-baby-formula-probe-produced-a-pile-of-evidence-then-the-doj-dropped-the-case-cdc68716.

⁴ E.g., *id.*

⁵ U.S. Opp’n Def. Abbott’s Motion to Dismiss with Prejudice at p. 3, *United States, et al. v. Abbott Labs.*, No. 1:22-cv-00994-HYJ-SJC, ECF No. 117 (W.D. Mich. Feb. 9, 2026).

Duva of the DOJ Criminal Division reportedly pushed for a felony charge that “Abbott executives conspired to defraud the US, along with a separate Food, Drug, and Cosmetic Act charge against the company.”⁶ Remarkably, DOJ’s current position is apparently not that the criminal case lacked merit but that a civil penalty is sufficient to deter and punish such dangerous behavior. For such serious allegations, a DOJ dedicated to enforcing the law—regardless of the political affiliation of its Attorney General—would likely insist on criminal charges *and* a civil penalty, not simply a settlement that is a cost of business for a corporation.⁷

DOJ’s failure to seek justice and accountability in this case is heightened by the fact that Abbott was represented by Kirkland & Ellis LLP.⁸ It is profoundly troubling that a law firm “donating” valuable legal services to the Trump Administration would also be permitted to lobby to drop criminal cases against the firm’s clients.⁹

These circumstances suggest that DOJ leadership made a bad decision for the wrong reasons. Although the evidence from the DOJ criminal investigation is not yet public, the DOJ’s own False Claims Act allegations reflect serious concerns about Abbott’s conduct and culpability along with a “culture of concealment.”¹⁰ For example, DOJ alleged:¹¹

- “[I]n a March 2022 message from senior Abbott leadership, notably sent after the Sturgis facility shut down and recall: ‘[j]ust don’t want to give more [to FDA] than what we committed.’” ¶ 134;
- “[I]n January 2022, rather than providing the most timely and complete information to FDA, the Site Quality Assurance Director decided not ‘to show them [FDA] January swabs’ and instead provided less accurate and more favorable data. This misrepresentation took place while FDA was at Sturgis investigating reports of illness and findings of insanitary conditions at the facility, including the presence of *Cronobacter spp.*” ¶ 164;
- “In 2019, Abbott was aware of, and failed to disclose, a positive *C. sak* finished product result to FDA during an FDA inspection in response to FDA investigators’ request for all of Abbott’s finished product testing.” ¶ 163;

⁶ Ben Penn, *DOJ Closing Abbott Labs Case Spurs Wider Corporate Crime Retreat*, BLOOMBERG GOVERNMENT, July 6, 2026, <https://news.bloomberglaw.com/us-law-week/doj-closing-abbott-labs-case-spurs-wider-corporate-crime-retreat>.

⁷ Securities and Exchange Commission filings show that Abbott paid \$4.1 billion in dividends to shareholders in 2025 and had \$8.9 billion in cash and cash equivalents on hand as of December 31, 2025. Abbott Laboratories, Annual Report (Form 10-K), at 23 (Feb. 20, 2026). These sums strongly recommend that Abbott can afford a substantial criminal fine, in addition to any False Claims Act penalties.

⁸ Kirkland & Ellis is one of the law firms that President Trump’s White House strongarmed into a multimillion-dollar agreement for “pro bono and other free legal services” to causes chosen by President Trump. See Letter from Richard Blumenthal, Ranking Member, S. Permanent Subcomm. on Investigations, Adam Schiff, United States Senator, and Jamie Raskin, Ranking Member, H. Comm. on the Judiciary, to John A. Ballis, Kirkland & Ellis (Mar. 2, 2026), www.schiff.senate.gov/wp-content/uploads/2026/03/Letter-to-Kirkland-Ellis.pdf.

⁹ Adding to the appearance of impropriety, Mark Filip of Kirkland & Ellis reportedly had been advocating to eliminate criminal prosecution authorities from the consumer protection prosecutors at DOJ investigating Abbott.

¹⁰ U.S. Complaint in Intervention ¶ 135, *United States, et al. v. Abbott Labs.*, No. 1:22-cv-00994-HYJ-SJC, ECF No. 88 (W.D. Mich. Feb. 9, 2026).

¹¹ *Id.*

- “[S]enior Abbott personnel explicitly acknowledged: ‘[y]ou will hear everyone speak to C. sak around here, but we actually are required [by FDA] to assure no Cronobacter species are present.’” ¶ 152; and
- “The Sturgis Site Director was also known to ‘push shortcuts’ to hit metrics.” ¶ 143.

These detailed factual allegations corroborate that DOJ attorneys had concluded Abbott engaged in intentional misconduct.¹² At the same time, there are unmistakable signs that white collar criminal enforcement is collapsing at DOJ, including through recurring pardons, the Administration dropping 23,000 criminal investigations after redirecting resources to out-of-control immigration enforcement, and a mass exodus of thousands of attorneys.¹³

Congress will continue to closely monitor and investigate your decisions and that of other DOJ officials in this case. Your Department made a decision to soften the burden for a large corporation that put American families and their children at risk due to tainted infant formula. That is unacceptable and contrary to public safety. When the false claims settlement is eventually disclosed, the public will know how seriously you take the risk of danger to the lives of infants when weighed against corporate profits. I suspect that Congress, along with the parents of infants exposed to these dangerous products and the American people, will profoundly disagree.

Considering the significance of these new reports and your nomination to be Attorney General, I request answers to the following questions by no later than July 13, 2026:

1. You have stated publicly that criminal cases targeting corporations should focus on charging individuals, yet the Abbott matter reportedly involved a high-level recommendation to charge executives for defrauding the government. Why does a case involving harm to American infants, including some who tragically died and a “culture of concealment” not merit the harsh penalties of criminal prosecution?
2. Which “top decision makers” at DOJ determined that the Abbott case did not merit a criminal prosecution?
3. Did you personally review the proposed criminal charges against Abbott, its executives or employees? If so, did you conclude that the charges lacked merit? If not, who did you assign to overrule career prosecutors and supervisors?

¹² Dave Michaels, et al., *The Baby Formula Probe Produce a Pile of Evidence. Then the DOJ Dropped the Case*, WALL STREET JOURNAL, June 28, 2026, www.wsj.com/us-news/law/the-baby-formula-probe-produced-a-pile-of-evidence-then-the-doj-dropped-the-case-cdc68716.

¹³ E.g., Marie Gottschalk, *Trump Administration Fails to Punish White-Collar Criminals*, BLOOMBERG, Mar. 23, 2026, <https://www.bloomberg.com/news/features/2026-03-23/trump-administration-fails-to-punish-white-collar-criminals>; Ken Morales and David Armstrong, *Trump DOJ Dropped 23,000 Criminal Investigations in Shift to Immigration*, PROPUBLICA, Mar. 31 2026, <https://www.propublica.org/article/trump-doj-immigration-bondi-declinations-criminal-investigations>; Eileen Sullivan and Andrea Fuller, *Trump Administration Sees Striking Exodus of Legal Talent*, THE NEW YORK TIMES, May 31, 2026, <https://www.nytimes.com/2026/05/31/us/politics/trump-administration-exodus-of-lawyers.html>.

4. Did “top decision makers” close the criminal investigation before or after Abbott made an offer to settle the False Claims Act case? If after, how do you respond to charges that justice in your DOJ is for sale?
5. Did your office complete an analysis of the principles of prosecuting business organizations as required by the Justice Manual after receiving a recommendation from career prosecutors? If so, what factors did DOJ political appointees weigh more heavily in overruling the career investigators’ recommendation?
6. What is your relationship with Mark Filip? Did you know that he had advocated for removing authority to charge criminal cases from the very office that was investigating his client Abbott Laboratories? Please provide copies of all communications and written materials related to criminal enforcement authorities that Kirkland & Ellis or Filip provided to DOJ.
7. When did you learn that Filip’s law firm, Kirkland & Ellis LLP, was providing free legal services for the federal government? Do you know the value of free legal services provided by Kirkland & Ellis to the federal government?
8. Acting FDA Commissioner Kyle Diamantas previously served as defense counsel for Abbott Laboratories in cases involving allegations of harm from infant formula.¹⁴ What contact, if any, did Diamantas have with DOJ officials regarding the decision to drop the criminal investigation of Abbott?
9. If prosecuting cases involving injuries or death to premature infants are no longer a priority enforcement matter, what priorities are the DOJ Criminal Division’s Health & Safety Unit pursuing?

Sincerely,



Adam B. Schiff
United States Senator

¹⁴ Sara Braun, *What to know about Kyle Diamantas, the new acting FDA commissioner*, THE GUARDIAN, May 13, 2026, <https://www.theguardian.com/us-news/2026/may/13/kyle-diamantas-new-acting-fda-commissioner>.