Internal GM report shields top executives for cover-up of deadly car defects

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The internal investigation of General Motors' handling of deadly car defects, released by GM CEO Mary Barra Thursday, exonerates top executives and suggests that bureaucratic incompetence and communication glitches were behind the automaker's failure to recall faulty vehicles responsible for scores if not hundreds of fatal accidents.

Chicago attorney Anton Valukas, who was hired by GM to carry out an "unvarnished" investigation, prepared the report. His credentials as an independent investigator are tainted, however, since he heads a law firm, Jenner & Block, which has a long history of working for GM. The firm was the lead outside counsel in GM's $23.1 billion initial public stock offering in 2010 and worked on the company's 2009 bankruptcy case. Valukas was also the lead counsel in a government probe of pension accounting that ended with no allegations of misconduct by GM, according to the firm's web site.

Internal GM documents show its engineers were aware, at least as early as 2001, that the ignition key switches on its smaller cars could unexpectedly move out of the "run" position, leading the car to stall. It took more than a decade, however, for the company to order the recall of 2.6 million Chevy Cobalts and other 2003-2011 models with the defective part which, by shutting off engine power, could also disable the power steering and brake systems and protective airbags. While the company acknowledges 13 fatalities, it is likely the defect was responsible for hundreds of fatal accidents.

Valukas' report presents damning evidence of what can only be described as corporate criminality. But its conclusion that there was no deliberate cover-up and that top officials, including Barra, GM General Counsel Michael Millikin and global product chief Mark Reuss, were unaware of any problems until 2014, strains credulity.

At an appearance at the company's tech center in the Detroit suburb of Warren, Barra said the report was "deeply disturbing" but added that there had been "no conspiracy found" within GM and no specific decision "to trade off safety" to save costs. She said, a "unique series of mistakes was made," GM engineers didn't understand that when the switches failed, they cut power to the airbags.

In an act of damage control, Barra announced the firing of 15 employees "who we determined to have acted inappropriately" and the disciplining of five others for their failure to act in the recall crisis. The highest level official terminated was Michael J. Robinson, a vice president for global regulatory affairs. Others included Chevrolet Cobalt engineer Gary Altman and ignition switch engineer Ray DeGiorgio, both of whom had previously been suspended, and senior GM lawyers Lawrence Buonomo and Bill Kemp.

Barra also announced that Kenneth Feinberg would oversee a compensation program for the families of those killed and who suffered serious physical injuries as the result of an ignition switch failure in recently recalled vehicles. Feinberg is a well-established government and corporate fixer, who served as the Obama administration's TARP executive compensation "czar" and oversaw compensation programs for the victims of 9/11, the BP oil disaster and the Boston Marathon bombings.

Press summaries of the 325-page report include the following findings, all pointing to criminal negligence by the largest US automaker:

* Former GM CEO Rick Wagoner "may have viewed" a PowerPoint slide a few weeks before GM's 2009 bankruptcy filing documenting the Chevrolet Cobalt's past history with inadvertent shutoffs. But Wagoner told Valukas in a May interview that he does not remember seeing the slide.

* GM ignition switch engineer Ray DeGiorgio

improperly authorized the redesigned switch in 2006 without changing the part number. Beginning in 2009 and continuing through this investigation, DeGiorgio has maintained he does not remember ordering the change, which, if known, likely would have compelled a recall.

* GM lead lawyer Millikin was not aware of Cobalt lawsuits until January 2014. This is despite the fact that lower-level lawyers approved a $5-million settlement for one victim.

* "A number of GM employees reported that they did not take notes at all at critical safety meetings because they believed GM lawyers did not want such notes taken," Valukas said.

* As long ago as fall 2002, DeGiorgio agreed to use an ignition switch "so far below GM's own specifications that it failed to keep the car powered on in circumstances drivers could encounter." However, those problems, where a car could stall, were considered "rare," and it would be years before officials linked stalls to airbags not deploying.

* In early 2007, Wisconsin State Patrol Trooper Keith Young did what GM and federal regulators had failed to: Investigating a fatal crash of a Cobalt, he noted the car's ignition was not in run position and that air bags were not designed to deploy in that instance. He also noted a GM service bulletin saying the ignition switch could be inadvertently turned off by a driver. The report was in GM's possession, but no one looked at it until 2014.

* In 2009, GM personnel have what they now acknowledge should have been an "aha" moment when a supplier told them air bags won't deploy if ignition is not in run position. Instead, they saw it "merely as a new fact that suggested avenues of inquiry."

* In 2011, internal GM investigators knew certain model-year Cobalts had a "history of turning off" and that, if the ignition turned off, air bags would not deploy. Yet, "instead of addressing this repeating problem, the investigators worked to find an ultimate solution that would solve the problem for all years and for every permutation of the ignition switch. The consequence was a two-and-a-half-year delay."

* Using ignition switches on cars in a Davison junkyard, GM personnel found in 2012 that "hitting a pothole" could potentially turn off a car.

* GM has identified "at least 54 frontal impact crashes" in which air bags did not deploy as a possible result of the ignition switch being moved out of position. That's a dozen more than the company had identified to date.

Internal GM documents revealed that in 2006, GM engineers recommended replacing the part—at the cost of less than a dollar a vehicle—but managers denied the request for financial reasons. Nevertheless, Valukas said, while "cost-cutting impacted all aspects of the business," investigators "uncovered no evidence that any employee made an explicit trade-off between safety and cost."

As in other recent cover-ups of corporate negligence and criminality, including the 2008 Wall Street crash, the BP/Deepwater Horizon oil spill and the Upper Big Branch Mine disaster, the narrative being promoted by GM and the media is that company officials and government regulators simply failed to "connect the dots."

In reality, the lives and limbs, particularly of young people who were the main buyers of the lower-cost cars, were sacrificed to protect the profits of this multi-billion dollar company. Those responsible are being allowed to get off scot-free.

Last month, the National Highway Traffic Safety Administration, the federal regulator, which was complicit in the cover up of safety defects, fined GM $35 million dollars, less than a single day's revenue for the giant automaker.

Meanwhile, GM reported late last month that only 47,000 of the 2.6 million cars with defective ignition switches have been fixed as new parts arrive slowly from the factory and dealerships nationwide schedule appointments. The company has rebuffed calls from families of the victims to ground all the unsafe cars until they can be fixed, and the NHTSA has upheld this position.