THE GM IGNITION SWITCH RECALL: INVESTIGATION UPDATE

HEARING

BEFORE THE

SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS

OF THE

COMMITTEE ON ENERGY AND COMMERCE

HOUSE OF REPRESENTATIVES

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[1] The document binder can be found at: *http://docs.house.gov/Committee/Search/Home.aspx?Keyword=Path%3a%22%2fIF02%2f%22*.

THE GM IGNITION SWITCH RECALL: INVESTIGATION UPDATE

WEDNESDAY, JUNE 18, 2014

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS,
COMMITTEE ON ENERGY AND COMMERCE,
Washington, DC.

The subcommittee met, pursuant to call, at 10:02 a.m., in room 2123 of the Rayburn House Office Building, Hon. Tim Murphy (chairman of the subcommittee) presiding.

Members present: Representatives Murphy, Burgess, Blackburn, Gingrey, Olson, Griffith, Johnson, Long, Ellmers, Barton, Terry, Upton (ex officio), DeGette, Braley, Schakowsky, Butterfield, Castor, Tonko, Yarmuth, Green, and Dingell.

Staff present: Gary Andres, Staff Director; Charlotte Baker, Deputy Communications Director; Mike Bloomquist, General Counsel; Sean Bonyun, Communications Director; Matt Bravo, Professional Staff Member; Leighton Brown, Press Assistant; Karen Christian, Chief Counsel, Oversight; Brad Grantz, Policy Coordinator, Oversight and Investigations; Brittany Havens, Legislative Clerk; Sean Hayes, Deputy Chief Counsel, Oversight and Investigations; Kirby Howard, Legislative Clerk; Alexa Marrero, Deputy Staff Director; John Ohly, Professional Staff, Oversight and Investigations; Mark Ratner, Policy Advisor to the Chairman; Krista Rosenthall, Counsel to Chairman Emeritus; Tara Rothschild, Professional Staff, Oversight and Investigations; Tom Wilbur, Digital Media Advisor; Phil Barnett, Democratic Staff Director; Peter Boduer, Counsel; Brian Cohen, Democratic Staff Director, Oversight and Investigations, Senior Policy Advisor; Lisa Goldman, Counsel; Kiren Gopal, Democratic Counsel; Elizabeth Letter, Press Secretary; and Stephen Salsbury, Democratic Investigator.

OPENING STATEMENT OF HON. TIM MURPHY, A REPRESENTATIVE IN CONGRESS FROM THE COMMONWEALTH OF PENNSYLVANIA

Mr. MURPHY. We now convene this hearing of the Oversight and Investigations Subcommittee, entitled, "The GM Ignition Switch Recall: Investigation Update." I thank my colleagues and representatives for being here.

Ms. Barra, when you were before this committee almost 3 months ago, you could not answer many of this subcommittee's questions about why it took General Motors years to figure out why the airbags in the Cobalts, Ions, and HHRs, were not deploying

when they should have. It took GM years before finally issuing a safety recall.

Now Mr. Valukas has made public his report on the GM fiasco in which he concludes there doesn't appear to be a case of a cover-up or a conspiracy. Instead, according to Mr. Valukas' report, GM's failure to recall faulty vehicles was a case of incompetence and neglect. Perhaps this report should have been subtitled, Don't Assume Malfeasance When Incompetence Will Do.

I still have questions about whether GM employees knowingly withheld information during previous liability lawsuits; information that could have led to an earlier recall, and prevented some of these tragedies from occurring.

In many ways, the facts surrounding what finally resulted in the GM recall are far more troubling than a cover-up. GM engineers and attorneys who were given the facts, including reports on stalls and airbag malfunctions, and who were tasked with figuring out what went wrong, did not connect the dots. That is because they were either incompetent or intentionally indifferent.

Today, I want to know from both Ms. Barra and Mr. Valukas not just how it happened, but why did this happen.

Even when a good law, like the TREAD Act of 2000, is in place, it requires people to use commonsense, value a moral code, and have a motivation driven by compassion for it to be effective. Here, the key people at GM seemed to lack all of these in a way that underscores that we cannot legislate commonsense, mandate morality, nor litigate compassion, and at some point it is up to the culture of the company that has to go beyond paperwork and rules.

The failures at General Motors were ones of accountability and culture. If employees do not have the moral fiber to do the right thing, and do not have the awareness to recognize when mistakes are being made, then the answer must be to change the people or change the culture. That is a lesson another large organization under congressional scrutiny should have also taken heart. I hope officials from the Veterans Affairs Department are watching.

What is particularly frustrating about GM is that the company appeared in no great hurry to figure out the problems with its vehicles. Despite customer complaints, reports from GM's own engineers that they were able to turn off the ignition switch with their knees during test drives, and finally reports of deaths, it was not until 2009 that GM figured out the airbags had any connection to the power mode status of the car. Then, it took another 4 years to link that finding to one of the components that determines the power mode; the ignition switch. And that discovery was not a result of GM's own investigative work, but raised in the course of a lawsuit brought by the family of a young woman who died behind the wheel of a Cobalt. How was this discovered?

An investigator for the family simply took two ignition switches apart and compared them; something GM failed to do during over 7 years of investigations into the mystery of Cobalt airbag non-deployment.

Ms. Barra, you sought this internal investigation of the ignition switch recall and you have publicly acknowledged how troubling its findings are. Your company has cooperated with this committee's investigation, and I thank you for that. You have taken corrective

action by changing procedures and trying to remove roadblocks to make sure safety concerns come to light. Based on this report, though, there are no easy fixes for the kind of systemic, cultural breakdowns and fundamental misunderstandings that permitted GM engineers not to suspect a safety problem when Cobalts were stalling due to a faulty ignition switch.

The possibility that these problems are pervasive and cultural deeply concerns me. It concerns us all. We learned Monday that GM has announced yet another recall; its thirty-ninth since January. This one is hauntingly similar to the Cobalt ignition switch recall. The ignition switch in certain Buicks, Chevys, and Cadillacs inadvertently moves out of the run position if the key has too much weight on it, causing the car to lose power and stall. The model years for the recalled vehicles goes back to the year 2000.

Mr. Valukas, your report tells us about the engineering and legal findings with GM, but what it doesn't divulge is whether GM attorneys made conscious decisions during discovery in other product liability lawsuits that prevented the truth from coming out sooner and potentially saving lives. That kind of malfeasance should be the crux of a cover-up. I want to delve deeper into that issue today and find out if that occurred.

A harder question to answer, and for you, Ms. Barra, to solve, is to why this happened. We know engineers approved a part that did not meet GM specifications. Why? Was it a cost concern? Was it a rush to get a car off the road? Was it just sloppy? When complaints were raised about Cobalt's ignition switch almost as soon as the car was on the road, why did the engineers not diagnose stalling as a safety problem? Again, was this a lack of basic education about how the car worked, or is it something less specific, but more difficult to address: a culture that does not respect accountability and that does not take responsibility for problems. When investigations drifted for years, there seems to be little to no evidence to suggest that this troubled anyone. Some of this is undoubtedly poor information-sharing and silos, and a failure to properly document change orders. But why didn't anyone at GM ask: we have known for years we have an airbag system that isn't working when it should; when are we going to do something about it?

Ms. Barra and Mr. Valukas, I thank you for being here today. I look forward to your testimony.

[The prepared statement of Mr. Murphy follows:]

PREPARED STATEMENT OF HON. TIM MURPHY

Ms. Barra, when you were before this committee almost 3 months ago, you could not answer many of this subcommittee's questions about why it took General Motors years to figure out why the airbags in its Cobalts, Ions, HHRs were not deploying when they should have. It took GM years before finally issuing a safety recall.

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tasked with figuring out what went wrong—didn't connect the dots. That's because they were either incompetent or intentionally indifferent.

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The failures at GM were ones of accountability and culture. If employees do not have the moral fiber to do the right thing, and do not have the awareness to recognize when mistakes are being made, then the answer must be to change the people or change the culture.

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Ms. Barra and Mr. Valukas, I thank you for being here today and I look forward to your testimony.

Mr. UPTON. And I now turn to Ms. DeGette for 5 minutes.

OPENING STATEMENT OF HON. DIANA DEGETTE, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF COLORADO

Ms. DEGETTE. Thank you, Mr. Chairman.

Mr. Chairman, we are still trying to unravel the facts that led to one of the worst automated tragedies of the last decade, and that is the installation of these faulty ignition switches in GM vehicles that we know has caused over a dozen deaths. These switches were bad from the start; they should have never been installed, and once they were installed, it became quickly clear to GM officials that something was very, very wrong with them. Disturbingly, the company left these unsafe vehicles on the road for over a decade.

Mr. Valukas, you have done important work describing how a defect known to GM employees for over a decade went unaddressed for so long. This report paints a troubling picture of GM's culture and commitment to safety that allowed this tragedy to take place. It describes engineering and investigative failures, a lack of urgency in addressing issues, poor communication within the company, and numerous other systemic problems, and, in the end, the company failed to inform customers and federal regulators of the deadly problem. But the report, unfortunately, does not answer all of the key questions. It does not fully explain how the ignition switch was approved without meeting specifications, and then how it was redesigned in 2006. It does not fully explain why stalling was not considered a safety issue within GM. And most troubling, as the chairman alluded to, the report does not fully explain how this dysfunctional company culture took root and persisted. The report singles out many individuals at GM who made poor decisions or failed to act, but it doesn't identify one individual in a position of high leadership who was responsible for these systemic failures. The report absolves previous CEOs, the legal department, Ms. Barra, and the GM Board from knowing about the tragedy beforehand. This is nothing to be proud of. That the most senior GM executives may not have known about a defect that caused more than a dozen deaths is, frankly, alarming and does not absolve them of responsibility for this tragedy.

Ms. Barra, while you are a new CEO, you have a decades-long history with GM. From 2011, you were executive vice president of global product development, and the GM staff responsible for vehicle safety reported either directly or through a chain of command to you. At least one high-level executive who was working on solutions to the ignition switch problem reported directly to you. So while you may not have known about this defect, many people who worked for you did.

The culture of a company is shaped by its senior leadership. They set the tone and shape the attitudes of the employees. They are also responsible for putting in place systems to foster transparency, and ensure that safety issues are taken seriously. Those systems failed at GM.

Today, what I want to know are specific answers to how the culture of secrecy at GM can be changed to encourage reporting of problems, not just structural management changes. I appreciate, Ms. Barra, the changes you have made at GM so far, but I think

the jury is still out on whether we can have success in changing the culture.

Last week, as the chairman mentioned, GM announced the recall of over 500,000 late-model Chevy Camaros, including 2014 model year vehicles, because of ignition switch problems. And Monday evening, just a couple of days ago, another 3.3 million cars with ignition switch and engine shut-off issues were recalled, including Chevy Impalas that are currently in production. This means that this year alone, GM has announced 44 recalls effecting more than 20 million vehicles worldwide.

Ms. Barra, this record reinforces the notion that the safety problems with the Cobalt and Ion were not unique at GM, and that the senior executives at the company, including you, should have acted sooner to resolve the company's culture.

So now, we need to show the American public that the changes that have been announced will really address the longstanding problems at GM.

Mr. Chairman, Ms. Barra is not the only one with work to do. This committee should get to work on legislation to address the findings of our investigation. And, in these last few minutes, I also want to acknowledge the families who are here in the hearing room today, and their beloved loved ones with the picture on the back wall there. I know it is not easy for you to learn about so many things that went wrong at GM. You have my word that we will do our best to make sure that this kind of tragedy will never, never happen again.

And, Mr. Chairman, I know that we can work together in a bipartisan way to do that. Thank you.

Mr. MURPHY. Thank you. Gentlelady's time has expired.

I now recognize the chairman of the full committee, Mr. Upton, for 5 minutes.

OPENING STATEMENT OF HON. FRED UPTON, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MICHIGAN

Mr. UPTON. Thank you, Mr. Chairman.

Ms. Barra, we all thank you for returning to the committee today as you said you would.

Three months ago, we held our first hearing on the GM ignition switch recall. We asked a lot of tough questions, but we got only a few answers. I expect things to go differently today.

We have the Valukas report in-hand, and we have its word seared in our minds. Our investigation tracks with the findings of the report of maddening and deadly breakdown over a decade, plagued by missed opportunities and disconnects. Engineers didn't comprehend how their cars operated or how vehicle systems were linked together. The company believed a car that stalled while driving wasn't necessarily a safety concern. Investigators let investigations drift for years, despite having proof right before their eyes that an airbag system wasn't deploying when it should have, and all of this existed in a bureaucratic culture where employees avoided taking responsibility with a nod of the head.

Ms. Barra, you have said you found the report deeply troubling as well. I find it very disturbing and downright devastating to you,

to GM, to folks in Michigan who live and breathe pride in the auto industry, but most of all to the families of the victims.

The recall announced on Monday this week makes it painfully clear that this is not just a Cobalt problem. A new set of vehicles, including multiple Chevrolet, Cadillac, Buick models, are facing an ignition switch recall for the very same kind of torque problem that lurked for over a decade in the Cobalt and similar small vehicles, with fatal consequences for unsuspecting drivers, including two teens from my own community.

Ms. Barra, Mr. Valukas, many questions today will focus on how and why this happened. I intend to focus on how we can make sure it never happens again. A culture that allowed safety problems to fester for years will be hard to change, but if GM is going to recover and regain the public's trust, it has to learn from this report and break the patterns that led to this unimaginable systematic breakdown. I want specifics on whether the changes you have already put in place really have made a difference.

With the Valukas report, GM is provided an assessment of what went wrong. I want to be clear today that our investigation does continue. This committee has reviewed over one million pages of documents, and interviewed key personnel from GM and NHTSA. While we are addressing GM's actions in response today, we will address NHTSA's part of the story in the near future. We don't yet have all the answers about what changes in our laws, the regulators' practices, or the company's culture, would have prevented this safety defect from lingering so long or harming so many, but we are going to find out. Yes, we will. The system failed and people died, and it could have been prevented.

I yield the balance of my time to Dr. Burgess.

[The prepared statement of Mr. Upton follows:]

PREPARED STATEMENT OF HON. FRED UPTON

Ms. Barra, thank you for returning back to the committee today. Three months ago we held our first hearing on the GM ignition switch recall. We asked a lot of questions, but we got few answers. I expect things to go differently today.

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Mr. UPTON. I yield the balance of my time to Dr. Burgess.

Mr. BURGESS. I thank the chairman of the full committee for yielding.

We now know this is not an evidence problem. The evidence is simply overwhelming. It is an analysis problem. General Motors still needs to answer the fundamental question of how it missed all of these glaring signs. Indeed, failure to recognize the problems in a timely fashion may well have cost 13 people their lives.

This report is deeply troubling. Maybe the most concerning aspect of the report is the simple recognition that, while everyone at General Motors had responsibility to fix the problem, no one took responsibility. That is unacceptable for one of America's flagship companies, and one that millions of us rely upon every day. Now, according to the report by Mr. Valukas, he offers 90 recommendations as to the problems and their failures that led to the ignition recall. I am certain that all 90 are crucial, but really, only one; accountability, and accountability that is not transferrable, is crucial. If personal accountability is missing, as the report here suggests, then disastrous consequences will not only occur, they will reoccur and reoccur.

Ms. Barra, Mr. Valukas, I thank you for being here in our committee today. The Valukas report is a start, a first step to solving a problem by identifying it. I hope also there are some answers for many of us as to the effect of now the understanding of the problem, and when the understanding occurred. Will this affect those cases that have already been litigated? How does General Motors' bankruptcy affect its position on those cases that were previously litigated, and perhaps we can even touch on Mr. Feinberg's employment. Is he an employee of GM, or is he working for the crash victims. All of these questions need to be answered today, and I look forward to your testimony, and thank you.

Mr. MURPHY. The gentleman yields back.

I now recognize Ms. Schakowsky for 5 minutes.

OPENING STATEMENT OF HON. JANICE D. SCHAKOWSKY, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ILLINOIS

Ms. SCHAKOWSKY. I thank you, Mr. Chairman, for holding this hearing; the second on the failure to recall defective GM vehicles in a timely manner, and I thank our witnesses for being here.

As I said at our first hearing on this issue, the families of the victims of GM's defective vehicles deserved better. GM failed you. We are looking at those pictures in the back of the room and they need more than an apology.

On June 5, Mr. Valukas, who is well known in Chicago where I come from and well respected there, reviewed GM's ignition switch failures and his report was released on June 5. The report characterized GM as a company with a convoluted structure and very little accountability, a place where there was an institutional failure to communicate and coordinate both within and between different departments. There is a story today in Bloomberg Businessweek about a whistleblower who apparently tried to bring these problems to the attention of the company and lost his job as a result.

During her previous appearance before the subcommittee, Ms. Barra repeatedly pointed to the importance of the Valukas report in addressing the many questions that she was not able to answer. I look forward to getting answers to those questions today.

A question I raised at our last hearing has yet to be answered to my satisfaction, and that is how GM will compensate those who were injured or who lost loved ones in crashes prior to GM's bankruptcy in 2009. Ms. Barra said that it would take her and Kenneth Feinberg, who was selected to advise GM on options of how to establish a victims' compensation fund, up to to 60 days, from 30 to 60 days, from the time of the first hearing to determine how to proceed with those claims. That first hearing was April 1 and it has now been 79 days, and so I hope we will get the answers today.

As Ms. Barra said when the Valukas report became public, "We failed these customers, and we must face up to it, and we must learn from it."

While 15 GM employees have been dismissed, it is not clear to me that any senior-level manager has been held responsible for the GM corporate culture that allowed the ignition switch defect to go unaddressed for years after it was first discovered in 2001. The question now is how far accountability extends at GM. As executive vice president of global product development, purchasing and supply from 2011, until taking over last year as CEO, Ms. Barra, my understanding is, was responsible for safety issues at the company. The Valukas report suggests that senior management at GM was unaware until 2013 that serious questions should have been asked about the ignition switch defect, however, two newspapers, including the New York Times, addressed the ignition switch defect in 2005. Now, if I were a senior-level executive that read about those problems in the newspaper, I would want answers and action. It seems GM executives demanded neither.

The Valukas report does make several suggestions on changing the corporate climate at GM, to respond faster and better to safety issues, and that includes improving communications with the National Highway Traffic Safety Administration, NHTSA, and I look forward to hearing from Ms. Barra about the changes the company has already made, and its plans for improvements in the future.

GM paid the maximum penalty for failing to inform NHTSA about the ignition switch defect. That was $35 million. To me, it sounds like a lot of money, but that is not enough of a deterrent for a company with over $150 billion in revenue. It sounds to me more like a slap on the wrist. I am an original cosponsor of Ranking Member Henry Waxman's Motor Vehicle Safety Act, H.R. 4364, which would increase the maximum penalties for failing to inform

NHTSA and the public of potentially deadly auto defects. As the ranking member of the Commerce Manufacturing and Trade Subcommittee, I am working on legislation that would do the same, while also addressing several other issues raised by the GM ignition switch defect, including requiring the public disclosure of technical service bulletins. Those are the bulletins which provide information to dealerships about how to repair vehicles that are experiencing a widespread problem kept from the public. In GM's case, TSBs were issued for the faulty ignition switch in 2005; almost 10 years before a recall was issued. Those TSBs instructed dealerships to replace the defective part.

I hope today's hearing will allow us to consider additional actions that might be needed in improving auto recalls, and I look forward to hearing from our witnesses.

I yield back.

Mr. MURPHY. Thank you.

I would now like to introduce the witnesses on the panel for today's hearing. Ms. Mary Barra is the Chief Executive Officer for General Motors Company, and has been in this role since January 15, 2014, when she also became a member of its board of directors. She has been with the company over 30 years, and has held a number of positions in the company, including vice president of global manufacturing engineering from 2008 to 2009, and executive director of vehicle manufacturing engineering from 2005 to 2008. Mr. Anton Valukas is a litigator and the chairman of Jenner and Block. He is a former U.S. attorney and fellow of the American College of Trial Lawyers. He was hired by the General Motors corporation to conduct the internal investigation into the faulty ignition switch, and he is the author of the report on the findings that was released 2 weeks ago.

I will now swear in the witnesses.

You are both aware that the committee is holding an investigative hearing, and when doing so, has the practice of taking testimony under oath. Do you have any objections to testifying under oath? Both witnesses say they do not. The Chair then advises you that under the rules of the House and the rules of the committee, you are entitled to be advised by counsel. Do either of you desire to be advised by counsel during your testimony today? Both decline. Thank you. In that case, if you would please rise and raise your right hand, I will swear you in.

[Witnesses sworn.]

Mr. MURPHY. Thank you. Both witnesses answered in the affirmative. You are now under oath and subject to the penalties set forth in Title XVIII, Section 1001 of the United States Code. You may now each give a 5-minute summary of your written statement.

Ms. Barra, would you like to open? Thank you. Please pull the microphone close to you. Thank you. You have to turn it on as well. I think there is a—thank you.

TESTIMONY OF MARY T. BARRA, CHIEF EXECUTIVE OFFICER, THE GENERAL MOTORS COMPANY; AND ANTON R. VALUKAS, JENNER AND BLOCK

TESTIMONY OF MARY T. BARRA

Ms. BARRA. Thank you, Mr. Chairman. I appreciate the chance to appear before you again today on the ignition switch issue.

Before I proceed with my brief remarks, I want to again express my sympathies to the families that lost loved ones, and those who suffered physical injury. I am ever mindful that we have a special responsibility to them and to those families, and the best way to fulfill that responsibility is to fix the problem by putting in place the needed changes to prevent this from every happening again.

When I was here 11 weeks ago, I told you how we intended to proceed with this matter. I promised we would conduct a comprehensive and transparent investigation into the causes of the ignition switch problem. I promised we would share the findings of Mr. Valukas' report with Congress, our regulators, NHTSA and the courts. I promised we would hold people accountable, and make substantial and rapid changes in our approach to recalls. Finally, I promised we would engage Ken Feinberg to develop a just and timely program for compensating families who lost loved ones, and those who suffered serious physical injury. We have done all of these things and more, and I welcome the opportunity to discuss them with you further.

The Valukas report, as you know, is extremely thorough, brutally tough and deeply troubling. It paints a picture of an organization that failed to handle a complex safety issue in a responsible way. I was deeply saddened and disturbed as I read the report. For those of us who have dedicated our lives to this company, it is enormously painful to have our shortcomings laid out so vividly. There is no way to minimize the seriousness of what Mr. Valukas and his investigators uncovered.

On June 2, Mr. Valukas presented the findings of his investigation to the Board of Directors of General Motors. I will leave it to Mr. Valukas to comment on his report, but for my part, I want you to know my reaction to the report and some of the actions I have taken since reviewing it.

First, we have made a number of personnel decisions. Fifteen individuals identified in the report are no longer with the company. We have restructured our safety decisionmaking process to raise it to the highest levels of the company, addressing a key point in the Valukas report that critical information was kept from senior management. Under the new system, this should never happen again.

We are currently conducting what I believe is the most exhaustive comprehensive safety review in the history of our company. We are leaving no stone unturned, and devoting whatever resources it takes to identify potential safety issues in all of our current vehicles and on vehicles no longer in production. Our responsibility is to set a new norm and a new industry standard on safety and quality. I have told our employees it is not enough to simply fix this problem; we need to create a new standard, and we will create a new norm.

We have announced the creation of, and have implemented, a new global product integrity organization that is already enhancing the overall safety and quality of our products, and we are taking a very aggressive approach on recalls, and we are bringing greater rigor and discipline to our analysis and decisionmaking process regarding these recalls and other potential safety-related matters. It is difficult to announce so many recalls, but it is absolutely the right thing to do.

As we discussed last time, we have engaged Kenneth Feinberg to review options for establishing a compensation program, and the process is moving rapidly. Mr. Feinberg has the full authority to establish eligibility criteria for victims, and to determine the compensation levels. He has indicated he will share his final criteria with us by the end of this month, and we expect to begin processing claims by August 1.

We have created a new position of vice president of global vehicle safety, and appointed Jeff Boyer, who is a highly respected expert in the field, to this position. I have personally told Jeff that he will have whatever resources he needs to do the job, and he has many already. In fact, we have also named a senior attorney to support him and to facilitate rapid information sharing across the organization. In addition, we have added 35 safety investigators that are already allowing us to identify and address safety issues much more quickly. And finally, we have instituted a Speak Up For Safety program, encouraging employees to report potential safety issues quickly, and we are recognizing them when they do so. This is more than a campaign or a program, it is the start of changing the way we think and act at General Motors.

Two weeks ago, I addressed the entire global workforce about the report. I told our team as bluntly as I knew how that the series of questionable actions and inactions uncovered in the investigation were inexcusable. I also told them that while I want to solve the problems as quickly as possible, I never want anyone associated with GM to forget what happened. I want this terrible experience permanently etched in our collective memories. This is not another business challenge. This is a tragic problem that should never have happened, and must never happen again.

The report makes a series of recommendations in 8 major areas. I have committed the company to act on all of the recommendations, and many of which we had started before and are already implemented.

Finally, Mr. Chairman, and members of the committee, I know some of you are wondering about my commitment to solve deep underlying cultural problems that were uncovered in the report. The answer is simple. I will not rest until these problems are resolved. As I told our employees, I am not afraid of the truth, and I am not going to accept business as usual at GM. It is time, in fact, it is past time, to insist on total accountability, and to make sure vital information is shared across all functions of the company, so we can unleash the full power of our 200,000 employees, our 21,000 dealers, and our 23,000 suppliers. We are a good company, but we can and must be much, much better.

This is my focus, and this is my promise to you, our employees, our customers, our shareholders, and the American people.

Thank you again for having me here today. I am pleased to take your questions.

[The prepared statement of Ms. Barra follows:]

Testimony of Mary T. Barra
Before the Subcommittee on Oversight and Investigations
House Committee on Energy and Commerce
June 18, 2014

Thank you, Mr. Chairman.

I appreciate the chance to appear before you again today on the ignition switch recall issue.

When I was here 11 weeks ago, I told you how we intended to proceed with this matter. I promised that we would conduct a comprehensive and transparent investigation into the causes of the ignition switch problem. I promised we would share the findings of the report with Congress, our regulators, NHTSA, and the Courts. I promised we would hold people accountable and make substantive and rapid changes in our approach to recalls. Finally, I promised we would engage Ken Feinberg to develop a just and timely program for compensating the families who lost loved ones and those who suffered serious physical injury.

We have done each of these things and more. And I welcome the opportunity to discuss them with you further.

The Valukas report, as you now know, is extremely thorough, brutally tough and deeply troubling. It paints a picture of an organization that failed to handle a complex safety issue in a responsible way. I was deeply saddened and disturbed as I read the report. For those of us who have dedicated our lives to this company, it is enormously painful to have our shortcomings laid out so vividly. There is no way to minimize the seriousness of what Mr. Valukas and his investigators uncovered.

On June 2, Mr. Valukas presented the findings of his investigation to the Board of Directors of General Motors. I will leave it to Mr. Valukas to comment on his report. For my part, I want you to know my reaction to the report and some of the actions I have taken since receiving it.

1. After reviewing the Valukas report, we made a number of personnel decisions. Fifteen individuals identified in the report are no longer with the company.

2. We have restructured our safety decision-making process to raise it to the highest levels of the company, addressing a key point in the Valukas report that critical information was kept from senior management. Under the new system, that problem should never be repeated.

3. We announced the creation of, and have implemented, a new Global Product Integrity organization that will enhance our overall safety and quality. And, we are taking an aggressive approach on recalls as we are bringing greater rigor and discipline to our analysis and decision-making process regarding recalls and other potential safety-related matters. This is difficult, but it is absolutely the right thing to do. As I have told our employees, this is the new norm.

4. As we discussed last time, we engaged Ken Feinberg to review options for establishing a compensation fund, and that process is moving forward rapidly. Mr. Feinberg has full authority to establish eligibility criteria for victims and determine compensation levels. He has indicated he will share the final criteria with us by the end of the month. We also expect to begin processing claims by August 1.

5. We created a new position of VP of Global Safety and appointed Jeff Boyer, a highly respected expert in the field, to the position. I have personally told Jeff he will have whatever resources he needs to do this job. In fact, we have named a senior attorney to serve as his chief legal adviser.

6. We added 35 safety investigators that will allow us to identify and address issues much more quickly.

7. We instituted a Speak Up For Safety program encouraging employees to report potential safety issues quickly. And we are going to recognize employees when they do so. More than a campaign or program, it's the start of changing the way we think at GM.

Two weeks ago, I purposefully addressed an audience of 1,200 employees at our Vehicle Engineering Center about the report. This address was simultaneously broadcast to all GM facilities around the world. I told our team as bluntly as I knew how, that the series of questionable actions and inactions uncovered in the investigation were inexcusable.

I also told them that while I want to solve the problems as quickly as possible, I never want anyone associated with GM to forget what happened. I want this terrible experience permanently etched in our collective memories. This isn't just another business challenge. This is a tragic problem that never should have happened. And it must never happen again.

This report makes a series of recommendations in eight main areas. I have committed the company to act on all of the recommendations, and we are moving forward on many of them already.

Finally, Mr. Chairman and Members of the Committee, I know some of you are wondering about my commitment to solve the deep underlying cultural problems uncovered in this report. The answer is I will not rest until these problems are resolved. As I told our employees, I am not afraid of the truth.

And I am not going to accept business as usual at GM. It's time — in fact, it's past time — to debunk the myths in our company so we can unleash the full power of our 200,000 employees, our 21,000 dealers and our 23,000 suppliers.

We are a good company, but we can and must be much better. That's my focus and that's my promise to you, our employees, our customers, our shareholders and the American people.

Thank you again for having me here today.

I am pleased to take your questions.

Mr. MURPHY. Thank you, Ms. Barra.
Mr. Valukas, you are recognized for 5 minutes.

TESTIMONY OF ANTON R. VALUKAS

Mr. VALUKAS. Have I got it?
Mr. MURPHY. You have to bring that very close to your mouth, and lift it up and——
Mr. VALUKAS. All right. Thank you, Mr. Chairman.
Mr. MURPHY. Even closer if you would, sir.
Mr. VALUKAS. Even closer?
Mr. MURPHY. Yes.
Mr. VALUKAS. OK. Thank you. Now I have it? OK, thank you. Thank you, Mr. Chairman.

In March of this year, General Motors asked me to determine why it took so long to recall the Cobalt and other vehicles that contained this faulty and defective switch, which has resulted in such disaster for General Motors and for the families who were involved in this matter. My explicit mandate from the General Motors Board of Directors was to promote and provide an unvarnished report as to how and why this occurred, to pursue the facts wherever they took us, and to report those facts in a report. General Motors' Board also directed me to make recommendations based on those factual findings to help them ensure that this did not happen again.

Jenner and Block, my firm, was given unfettered access to General Motors witnesses and documents. In point of fact, we interviewed, in the 70 days or so, 230 witnesses, some of them multiple times, so we had about approximately 350 interviews, some of them lasting 6 to 8 hours. We viewed over 41 million documents, coming from the files of everybody from the top executives down to the individuals who were involved at the most technical level. A number of documents involved tens of millions of materials that were personally reviewed by individual reviewers, and all of this was in an effort to find out the facts as to why this Cobalt recall took over a decade, and why that defective switch remained unaccounted for during that period of time.

A copy of that report was provided to the committee. I am not going to go through the details, but the story of the Cobalt is a story of individual and organizational failures that have led to devastating consequences. Throughout the decade it took General Motors to recall the Cobalt, there was, as has already been described here this morning by one of the Members, a lack of accountability, a lack of urgency, and extraordinarily a failure of the company personnel charged with safety issues to understand how this car was manufactured, and the interplay between the switch and other aspects of the automobile.

In our report, we reviewed these failures, and identified cultural issues that may have contributed to this problem. As General Motors' Board requested, we have provided recommendations to help ensure that this problem does not take place in the future, but as we note in my written statement to you, that is an issue with which GM must deal. The report does not give all of the answers.

Thank you.

[The prepared statement of Mr. Valukas follows:]

Written Testimony of

Anton R. Valukas
Jenner & Block LLP
353 N. Clark Street
Chicago, IL 60654

Before the Committee on Energy and Commerce
Subcommittee on Oversight and Investigations

United States House of Representatives

"The GM Ignition Switch Recall: Investigation Update"

June 18, 2014

Chairmen Murphy and Upton, Ranking Members DeGette and Waxman, and members of the Committee:

Thank you for having me here to testify about my report on the Cobalt ignition switch.

In March of this year GM asked me to determine why it took so long to recall the Cobalt and other vehicles that contained the faulty ignition switch. I approached this task in much the same way that I did in conducting my review of the Lehman Brothers matter, albeit on a much more expedited timetable. My job was to find the facts as to how and why this occurred and set forth those facts in a report.

Jenner & Block was given unfettered access to GM witnesses and documents and was asked for an unvarnished account. We interviewed more than 230 witnesses and collected more than 41 million documents. We obtained and reviewed forensically imaged hard drives, including those belonging to top executives. We searched server-based e-mails and shared drives, electronic databases, and hundreds of boxes of hard-copy documents, all in an effort to identify any documents that would bear on our assignment to find out why the Cobalt recall was delayed for so many years. If we discover any new information that materially affects our report, we will supplement our findings to the Board.

In our report, we did not simply repeat what any individual GM employee told us. We tested those assertions against the extensive documentary record we gathered and against the statements of other witnesses.

I will not summarize the report in any detail – it speaks for itself. I will, however, highlight a few broad conclusions that tie directly to our recommendations.

- GM personnel approved the use of an ignition switch in the Cobalt and other cars that was far below GM's own specification. This was done by a single engineer and was not

known by those who were investigating the Cobalt from the time of the approval until 2013.

- From the time it first went into production, the Cobalt (and the Ion before it) had problems because the ignition switch could too easily be turned to Accessory, resulting in a moving stall including the loss of power steering and power brakes. GM engineers were fully aware of this problem but did not consider it a safety issue. That conclusion was the wrong one – amazingly, the engineers investigating the Cobalt in 2004 and 2005 did not understand that, when the key turned to Accessory, the airbags would fail to deploy.

    - Because GM personnel failed to understand the potential hazard caused by the ignition switch, GM engineers debated through various committees whether any of the potential fixes were cost-effective. This focus on cost was driven by the failure to understand that a safety defect was at issue and the consequences of that defect.

- In 2006, the engineer who authorized the below-specification switch in the first place increased the torque in the ignition switch by authorizing a change to the switch. He approved a change to the switch, but did not change the part number, thereby concealing the change and leading to years of confusion among investigators about why, if the ignition switch was mechanically the same in all model years, accident data was so markedly different before and after Model Year 2008.

- GM personnel began recognizing the problem of non-deployment of airbags in the Cobalt as far back as 2007, but failed to take advantage of all the resources at their disposal – including information in GM's own databases – to understand that the non-deployment was related to the known problem of the ignition switch. Others – outside GM – made this connection as early as 2007. But, as fatalities and injuries mounted in cases in which airbags did not deploy in Cobalts, GM personnel displayed no sense of urgency in determining the cause.

- By 2011, GM personnel knew that there was a pattern of non-deployments in Cobalts and that the ignition switch might be to blame. GM's outside counsel warned GM that it might be liable for punitive damages for failing to deal with the problem for so many years.

    - But, once again, GM personnel failed to display any sense of urgency. The non-deployment investigation languished, even as it became more and more clear that the ignition switch was the problem.
    - And the investigation was further delayed when the engineer who originally approved the faulty switch told GM safety engineers that he had never changed the switch, when, in truth, he had.

- By 2013, the investigation had not progressed, and it was only when an outside expert hired by a plaintiff's lawyer took the switches apart and compared them that GM

personnel finally understood that the switch had been changed. Even then, however, GM took another 10 months to recall the Cobalt.

The story of the Cobalt is one of a series of individual and organizational failures that led to devastating consequences. Throughout the decade that it took GM to recall the Cobalt, there was a lack of accountability, a lack of urgency, and a failure of company personnel charged with ensuring the safety of the company's vehicles to understand how GM's own cars were designed. We found failures throughout the company – including individual errors, poor management, byzantine committee structures, lack of training, and inadequate policies.

In our report, we review these failures, including cultural issues that may have contributed to this problem, and we provide recommendations to ensure that it never occurs again.

I understand that while this report answers many questions, it leaves open others:

- Government officials (and perhaps judges and juries) will assess the credibility of witnesses and whether there was civil or criminal culpability;
- GM will have to make decisions about how to ensure that this never happens again;
- Others, whether courts or Mr. Feinberg, will make decisions about which specific accidents were caused by the Cobalt's faulty ignition switch.

Our role was to find the facts as to why this recall took far too long. I believe we have done so.

Mr. MURPHY. Thank you very much.

Now I recognize myself for 5 minutes of questions.

Mr. Valukas, your report references such terms as the GM nod and the GM salute, where people nod in agreement and do nothing or look to others to do something, but no one accepts responsibility.

Ms. Barra, do you agree with Mr. Valukas when he states that culture is the problem at GM, that a culture where GM personnel failed to recognize significant issues to decisionmakers, delayed the ignition switch recalls?

Ms. BARRA. I agree that there are specific people involved that did not act appropriately.

Mr. MURPHY. You have been with the company for 30 years, right?

Ms. BARRA. Yes, I have.

Mr. MURPHY. How does someone who has spent an entire career within the culture of GM change the culture of GM? I believe there are 210,000 employees or so with GM. You mentioned 15 were fired.

Ms. BARRA. Yes.

Mr. MURPHY. That is 99.999 percent, if my math is right, of the people are the same. If you haven't changed the people, how do you change the culture?

Ms. BARRA. Well, again, the 15 people that are no longer with the company are the people that either didn't take action they should, or didn't work urgently enough to rectify this matter, and they are no longer part of this company. That was a strong signal to send within the company. Again, what is much more important is that we create the right environment where everyone in the company is able to come to work every day and do their best work, be supported, and that is the culture that we are working to create, that is the programs we have put in place, like Speak Up For Safety, and the structural changes we have made.

Mr. MURPHY. The previously-referenced article by Bloomberg notes that Courtland Kelley, who worked on the Cavalier, the predecessor to the Cobalt, raised questions about a defective fuel line. He had to continue to do that, even threatening in moving forward with whistleblower actions. This was referenced on page 93, Mr. Valukas, of your report where it says, "Oakley also noted, however, that he was reluctant to push hard on safety issues because of his perception that his predecessor had been pushed out of the job for doing just that."

I guess this speaks to the question of what is a cover-up. Mr. Valukas, you concluded there was no conspiracy and no cover-up. Does an employee acting alone, who hides or doesn't share information, a cover-up?

Mr. VALUKAS. I am sorry. Can—the latter part of the—the last part?

Mr. MURPHY. Does an employee who acts alone, or who hides or doesn't share information, a cover-up?

Mr. VALUKAS. If the individual knows that the information is, for instance, a safety information, and understands that and deliberately decides to conceal that, that is a cover-up, yes, it is.

Mr. MURPHY. And on a corporate culture of carelessness, where lifesaving information sits in file boxes collecting dust, as you referred to, is that a cover-up?

Mr. VALUKAS. What we found in connection with this, Mr. Chairman, was the following. We found that a large number of individuals had information that they—in the first instance, they didn't believe was safety-related information. Clearly up until about 2009, they looked at this as a convenience matter, and they dealt with it that way. We did not find evidence that any individual had a piece of evidence in connection with this Cobalt recall which they considered to be safety information, which they deliberately withheld from somebody else.

Mr. MURPHY. You put in your report though that Mr. Oakley specifically says he is reluctant to push hard on safety issues.

Mr. VALUKAS. I am sorry?

Mr. MURPHY. You put in your report where Mr. Oakley specifically says, on page 93, he was reluctant to push hard on safety issues because of his perception that his predecessor had been pushed out of a job. That implies he withheld safety information.

First of all, Ms. Barra, is he still working for you?

Ms. BARRA. Yes, he is, and actually he has raised issues and we are actively investigating. It is part of our Speak Up For Safety program.

Mr. MURPHY. Well, it sounds like he decided not to speak up.

Ms. BARRA. Well, he is now, and we are taking it very seriously.

Mr. MURPHY. I just find it hard to believe that of 210,000 employees, not a single one in that company had the integrity to say, I think we are making a mistake here. Not a single one. That is puzzling to me. I mean even out at the VA Hospital, we have lots of whistleblowers. I don't see here in GM that there are whistleblowers. Not a single person you interviewed in this?

Mr. VALUKAS. Well——

Mr. MURPHY. Well, let me jump to another question. I am going to get back to this, because there were also a lot of issues about lawsuits. You referenced some of those, but what I don't see here is questions, if GM responded appropriately to victims' discovery requests in the lawsuits, including what GM understood about the airbag deployment. Did you find that—I don't know if you spoke with plaintiffs' attorneys in this case, but did you find that in every case that information requested of GM was responded to in a timely manner of the plaintiffs' attorneys' request, and that the information they presented to GM was responded to?

Mr. VALUKAS. Mr. Chairman, what we did was we—and at the very beginning of this investigation I sent letters and e-mail to the key plaintiffs' lawyers who were involved, and where there would be—in the most sensitive of these cases, I don't want to mention family names, but including the case that resulted in the disclosure of the two switches, inviting them to contact me so that we could talk in the investigation, determine that very issue, that deal with that issue. Not one of those attorneys responded to me. I also interviewed the attorneys who were outside counsel in connection with the GM matters, the particular piece of litigation, determine whether I had any evidence there of something which would indicate that GM had particular facts which they were withholding in

order to accomplish something, and I did not find evidence of that in my discussions with outside counsel.

I reviewed all of the e-mail relating to the legal department in connection with all of these cases. And I say I. Jenner and Block did, I didn't interview them personally, to determine whether there was any evidence that there was information that they had that they were now making a decision, for instance, to settle a case because they wanted to conceal the safety defect and prevent a recall, and I did not find information such as that, so——

Mr. MURPHY. I appreciate that. I am out of time, but I want to say there is a difference between not getting a response and not having the facts, and my assumption is when you tasked Mr. Valukas with getting all the information, if you don't have this information, do you still want it?

Ms. BARRA. I——

Mr. MURPHY. The information with regard to if information was not passed on to plaintiffs' attorneys who had made the request, do you still want that information? That is what I—I am out of time. I will go to Ms. DeGette.

Ms. DEGETTE. Thank you, Mr. Chairman.

Mr. Valukas, the Chairman just asked Ms. Barra about this GM nod and GM salute that you talked about in your report on page 255 and 256, where you said one witness described the GM phenomenon of avoiding responsibility as the GM salute, a crossing of the arms and pointing outwards to others, indicating the responsibility belongs to someone else, not me. And then you said, similarly, Mary Barra described a phenomenon known as the GM nod. The GM nod Barra described as when everyone nods in agreement a proposed plan of action, but then leaves the room with no intention to follow through, and the nod is an empty gesture.

When the Chairman just asked Ms. Barra about this, she said, "There were specific people involved that did not act appropriately." Do you think this company culture, the GM nod and the GM salute, was just limited to those 15 people who have been terminated from GM, yes or no?

Mr. VALUKAS. I can't tell—I can't answer that question.

Ms. DEGETTE. Do you think it was only 15 people who did this GM nod and salute?

Mr. VALUKAS. No, I think there were a number of people——

Ms. DEGETTE. Thank you.

Mr. VALUKAS [continuing]. Who were on the committees.

Ms. DEGETTE. Thank you.

Mr. VALUKAS. OK.

Ms. DEGETTE. And you learned that although the problems with the ignition switch's safety issues were known by many in the company, GM senior leadership, including Ms. Barra, was unaware of these issues for years. Is that correct?

Mr. VALUKAS. That is factually correct.

Ms. DEGETTE. Thank you. These leaders included GM CEOs, including Rick Wagner, Mike Millikin, who was then GM's general counsel, and Ms. Barra, correct?

Mr. VALUKAS. That is correct.

Ms. DEGETTE. And, Ms. Barra, you previously testified that you didn't know about the problems with the ignition switch until December 2013, is that correct?

Ms. BARRA. I testified I knew there was an issue with the Cobalt in December that they were studying. I knew there was an ignition switch issue on January 31, that's what I testified.

Ms. DEGETTE. In December 2013, right?

Ms. BARRA. January 31, 2014, was when I knew——

Ms. DEGETTE. OK.

Ms. BARRA [continuing]. There was an ignition——

Ms. DEGETTE. Thanks.

Ms. BARRA [continuing]. Switch issue.

Ms. DEGETTE. OK. Now, Gay Kent, who was the director of vehicle safety in your department, she made decisions in 2004 about the stalling being a safety risk. Did she ever share those findings with you, yes or no?

Ms. BARRA. No.

Ms. DEGETTE. And Jim Federico, a senior GM executive, brought in to find solutions to the airbag situation in 2012, he knew about the problems and he reported directly to you. Did he ever share his knowledge with you——

Ms. BARRA. He——

Ms. DEGETTE [continuing]. Yes or no?

Ms. BARRA. Well, he reported directly to me at a portion of his time, and then he no longer reported——

Ms. DEGETTE. But did he ever tell you about these problems?

Ms. BARRA. No he did not.

Ms. DEGETTE. No, he didn't. Now, you have made a number of structural changes at GM, and I appreciate this and I know you are committed to doing it, but the company culture is what concerns me as well as the chairman, and the problems that I have identified today are not problems about who reports to whom, but rather a culture that encourages people not to stick their necks out and report things. And, in fact, just yesterday, I learned from a source very close to GM who has intimate knowledge of the culture there, that the results of Mr. Valukas' investigation and the terminations of these 15 employees have only created more paranoia within the company that people are going to lose their jobs. And so I want to ask you, Ms. Barra, what are you doing, not just to change the structure and put these safety programs together and so on, but to change the culture of the company so that the company rewards people reporting problems, not sweeping it under the rug?

Ms. BARRA. We are doing a lot, and to your point, it is not done by words, it is not done by slogans, it is done by actions.

Ms. DEGETTE. Well, so what is it that you are doing?

Ms. BARRA. So we have put the Speak Up For Safety program, and I am getting personally information from employees. I am acting on it, we have a regular program, we are going to be recognizing those individuals. I have spoken to all of our employees globally, encouraging them. But I think most important, the work that we are doing and the actions we are taking with the additional recalls demonstrate how sincere we are to the customer and the cen-

ter of everything we do, and we want to make sure we are doing the right thing as it relates to safety, as it relates for quality——

Ms. DEGETTE. But we——

Ms. BARRA [continuing]. And our employees are seeing that.

Ms. DEGETTE. OK. I would like to see, if you may supplement your answer with the specifics of how you are rewarding this.

Ms. BARRA. Yes.

Ms. DEGETTE. I would appreciate that.

Ms. BARRA. We can do that.

Ms. DEGETTE. Now, I want to talk to you briefly about this compensation fund. I am pleased now that you are telling us that Mr. Feinberg is setting up a compensation fund, but we still don't have very many details of it. Has the company or Mr. Feinberg determined the criteria about who will be eligible for payment, yes or no?

Ms. BARRA. He is developing that, but I think the important point——

Ms. DEGETTE. So we don't have that criteria yet——

Ms. BARRA. He has a——

Ms. DEGETTE [continuing]. Correct?

Ms. BARRA. He has a draft protocol that he is getting input. He is an independent——

Ms. DEGETTE. Would you please provide that to this committee, the draft protocol?

Ms. BARRA. We can.

Ms. DEGETTE. Thank you very much.

Ms. BARRA. Can I add——

Ms. DEGETTE. And——

Ms. BARRA [continuing]. A point?

Ms. DEGETTE. And—no. Let me ask you this. Will Mr. Feinberg have discretion to make eligible for payment victims beyond those identified by GM to date, because we are hearing there may be up to 100 deaths from this?

Ms. BARRA. We want to capture every single person who suffered serious physical injury or lost a loved one, every single person as a result of the ignition switch——

Ms. DEGETTE. So your answer is yes?

Ms. BARRA. Yes.

Ms. DEGETTE. OK, and will those people who receive payment through this program be required to release their legal claims?

Ms. BARRA. I am sorry, the voluntary program?

Ms. DEGETTE. No. If they get compensated from Mr. Feinberg's program, will they have to release their legal claims to go to court? Do you know?

Ms. BARRA. This program is in lieu of taking this to court.

Ms. DEGETTE. So your answer is yes?

Ms. BARRA. I can't say exhaustively, but as it relates to this specific instance, yes.

Ms. DEGETTE. OK, will you submit your answer please and let me know that?

Mr. MURPHY. Thank you.

Ms. DEGETTE. Thank you very much.

Mr. MURPHY. Gentlelady's time expired.

Now recognize Mr. Upton for 5 minutes.

Mr. UPTON. Thank you again.

You know, I am a firm believer that you cannot solve a problem that you don't acknowledge or fully understand, so while I am going to try to be very interested in forward-looking solutions, I want to begin by walking through and defining some key problems that we identified from this report.

First, a simple yes or no. Is it true that GM engineers did not believe the ignition switch moving from run to accessory and causing a stall, constituted a safety problem? First, Ms. Barra——

Ms. BARRA. Initially——

Mr. UPTON [continuing]. And then——

Ms. BARRA [continuing]. Yes.

Mr. UPTON. And Mr. Valukas?

Mr. VALUKAS. Yes.

Mr. UPTON. Can you confirm that a GM engineer test driving the Cobalt in '05 experienced a shutoff after hitting the key with his knee, and that his report on the incident was categorized as an annoyance rather than a safety issue?

Ms. BARRA. Yes, that was quite true.

Mr. UPTON. So let us continue talking about how GM employee warnings and experiences were handled. I read with a lot of concern this morning's news coverage alleging that employee safety concerns went unheeded. I won't ask you to respond to a particular newspaper article, but I do want to get your reaction to a case uncovered in our investigation about a specific employee concern, and I want to know how it was handled at the time and how it would be handled if it was raised today. And you have a tab on page 83 in your binder, but in '05, a GM employee drove an '06 Chevy Impala home from work. When she hit a bump in the road, the ignition switch fell out of the run position and stalled the car. Let me read you from her e-mail, which is up on the screen, sent in October of '05 after she took the vehicle for repair. "I think this is a serious safety problem, especially if this switch is on multiple programs. I am thinking big recall. I was driving 45 miles per hour when I hit the pothole and the car shut off, and I had a car driving behind me, swerving around me. I don't like to imagine a customer driving with their kids in the backseat on I–75 and hitting a pothole in rush-hour traffic. I think you should seriously consider changing this part to a switch with a stronger detent."

So to reiterate, nearly 9 years ago, a GM employee suggested the stalling of the '06 Impala was a serious safety problem, and speculated that a big recall was coming. So when was the recall for the '06 Impala announced, do you know?

Ms. BARRA. I believe that was part of Monday's——

Mr. UPTON. Two days ago. Monday. Nine years ago. So looking at that case, and looking as if it happened today, can you tell us specifically how a concern like this would be handled if it was raised today?

Ms. BARRA. Yes. As I testified when I was here last time, we consider a stall to be a safety issue, and so when a stall is brought forward, if we then learn and understand it is because of a defect in the way some part of a system in the vehicle is working, we are going to address it. We do have to understand stalls also happen when you run out of gas or pop the clutch, but if we are aware of

a stall, and we then learn that it is because some part of the vehicle or a system is not operating properly, we will immediately take action, and that is what is represented in what we did on Monday.

Mr. UPTON. Mr. Valukas, in going through the report, there were some comments made as to the consumer friendliness of the TREAD Act requirements in terms of complaints that were received. What suggestions might you have relating to that, in terms of how we proceed in the future?

Mr. VALUKAS. I don't have a specific legislative suggestion for you. I did include in the recommendations something which I think is very important for General Motors, which is they need to look at NHTSA as a partner in this issue, and not somebody to be held at bay, so that the transmission of information is a free flow of information and problems are elevated at the earliest possible point. It is clear to me from the earlier aspects of this investigation that there were times where it was almost an adversarial relationship rather than a passing of information, but I don't have a legislative suggestion for you.

Mr. UPTON. Ms. Barra, do you have a comment as it relates to the compiling of the information for the TREAD Act for the complaints?

Ms. BARRA. I think it is very important that we have a productive relationship with the Agency, with NHTSA, and I do think there are things that can be done through the national VIN database and also improving the search capability and ability to use valuable information that is in the TREAD database.

Mr. UPTON. OK. I yield back.

Mr. MURPHY. Thank you. I have a clarifying question based on something Ms. DeGette and Mr. Upton said. Given that I think GM has now recalled something like 40 million cars, do you have a revised number on the number of deaths and crashes that may have been associated with the faulty ignition switch? Do you have a number yet?

Ms. BARRA. The recall that we did on Monday, there's no known—we know of no fatalities.

Mr. MURPHY. But overall, related to what Ms. DeGette was saying, is there——

Ms. BARRA. With the information that we have as it relates to the Cobalt and the population of those vehicles, the known number we have is still 13.

Mr. MURPHY. Thank you.

Recognize Mr. Dingell now for 5 minutes.

Mr. DINGELL. Thank you, Mr. Chairman. Welcome to Ms. Barra and to Mr. Valukas. We appreciate you being here today.

You, Mr. Valukas, and your team have compiled a report about serious internal shortcomings at General Motors that has contributed to the company's failure to report a safety defect in the Chevrolet Cobalt. I know that Ms. Barra shares my grave concern about the report's findings, and I look to her and the GM leadership for establishing more responsible and communicative cultures at GM.

We all recognize your report as not an end to the investigation. It does impute a number of commonsense recommendations which I feel GM should commit to implementing in full.

My questions to Ms. Barra today will require simple yes or no answers. Now, to Ms. Barra, we have learned that Cobalt's ignition switch was redesigned, but it was not given a new part number. This obfuscated the company's internal investigation, and contributed to a delay in defect reporting and subsequent recalls. Mr. Valukas suggests in his report that GM adopt procedures that include a specific protocol for reviewing authorizations of out-of-specification parts, tracking out-of-specification parts, identifying who should be notified of them, and identifying and elevating any particular safety issues that might be associated with the use of out-of-specification parts. The report goes on to suggest that high-level review should be required before approval of use of an out-of-specification part.

Now, does GM commit to implementing these particular suggestions in full, yes or no?

Ms. BARRA. Yes.

Mr. DINGELL. Now, Ms. Barra, subsequently, Mr. Valukas suggests in his report that GM make improvements in its problem resolution tracking system, PRTS. More specifically, his report suggests that the standard for closing PRTS without action is clearly defined and sufficiently rigorous. He goes on to suggest that PRTS should not be closed without action, absent clear sign-off by named individuals, and appropriate levels of review. Furthermore, his report suggests that GM reaffirm that the lack of an acceptable business case is not an acceptable reason for closing out a PRTS if that involves a safety issue.

Does GM commit to implementing all of these suggestions moving forward, yes or no?

Ms. BARRA. Yes.

Mr. DINGELL. Now, again, Ms. Barra, likewise I think we all agree with Mr. Valukas, that GM should implement more robust policies and training with respect to component and vehicle safety matters.

At the most basic level, does GM commit to training its employees about the lessons learned from the Cobalt investigation, yes or no?

Ms. BARRA. Yes.

Mr. DINGELL. Now, again, Ms. Barra, will GM train employees to recognize and elevate safety issues, including the emphasis on the need to identify and address safety issues actively, regardless of whether the vehicles are in the design or production phase, yes or no?

Ms. BARRA. Yes.

Mr. DINGELL. Now, again, Ms. Barra, when fostering a culture of safety, I think we all recognize it is very important that employees who recognize and report safety problems in components and vehicle feel comfortable in so doing.

As such, does GM commit to promote visibility and enforce rigorously the non-retaliation policy contained in paragraph 19 of the May 16 NHTSA consent order, yes or no?

Ms. BARRA. Yes.

Mr. DINGELL. Now, Ms. Barra, it is also important that all automakers communicate clearly and promptly with NHTSA. I said all automakers.

Will GM create a centralized database for all communications with NHTSA, and train its employees who communicate with NHTSA, to file their communications in this database, yes or no?

Ms. BARRA. Yes.

Mr. DINGELL. Now, do you think that that is good for other companies?

Ms. BARRA. Yes, I do.

Mr. MURPHY. Gentleman's time has expired.

Mr. DINGELL. Mr. Chairman, I thank you for your courtesy.

Mr. MURPHY. Thank you very much.

Now recognize the vice chair of the full committee, Mrs. Blackburn, for 5 minutes.

Mrs. BLACKBURN. Ms. Barra, I thank you for coming back.

I have a few questions for you, and I have to tell you, many of my questions that I asked and couldn't get answers for in April when you were with us, you said after Mr. Valukas finished the report, you hoped to be able to answer these questions.

Now, since that time, I have been able to be on the floor at the Springhill facility which is there in my district. We have 1,868 employees that certainly do not want the GM brand to be tarnished by all of this, and so it is important to me on behalf of all those constituents that we get some answers, and that we do this very quickly. So we thank you for coming back to us today.

I want to go back to something I asked you about in April, and you explained that a part that doesn't meet all specifications can still be acceptable for safety, and the example that you used was with steel. Now, we know that the Cobalt ignition switch was redesigned in '06, right? And testing documents from that time show that the torque of the redesigned switch was still below specifications, and yet after this change, the reported incidents of non-deployment in these vehicles dropped dramatically.

Well, when we look at that and we read those documents, and the chairman mentioned, we have been through 1 million pages of documents, and 15,000 pages of documents from NHTSA. So we are not sitting idly on this, we are taking some action.

So I want you to go back through this and elaborate on your response that something could still not meet specifications and be acceptable for safety, and I would like to hear from you when it is OK to deviate from specifications, and people in the process not be aware of this.

Ms. BARRA. Well, I think when you look, as you start developing something, you have a design specification, but what is most important, and the testing that we are doing now is—and had done in the past, but are doing in a much more broad fashion now, relates to the actual performance of the part and how the part operates in a subsystem, how it operates in a broader system, and then how it operates in the vehicle. And so as we design now, we are validating that the part level, with the new organization we put together called the product integrity organization, they are actually now looking into a much more validation as it relates to subsystems, because what you really want to know is, as all the parts come together, that it is going to operate as a system and perform safely.

Mrs. BLACKBURN. OK.

Ms. BARRA. And that is what the new organization is accomplishing.

Mrs. BLACKBURN. OK, so what you are saying then, if it doesn't affect safety or effectiveness, it is OK not to meet specifications.

Ms. BARRA. I am saying there are times where, as long as—it has to meet the performance requirements.

Mrs. BLACKBURN. OK, then how should an engineer evaluate the performance, the part's performance, against the technical specifications?

Ms. BARRA. Again, there is—you look at performance against requirements. What are the requirements of how that part needs to behave in the system, and that is how an engineer evaluates it. And, again, what we are doing now is taking that much more broadly, so we are not relying on one person——

Mrs. BLACKBURN. OK.

Ms. BARRA [continuing]. To understand across the whole vehicle.

Mrs. BLACKBURN. Then in this product integrity system, how does GM track the deviations that are occurring from the technical specifications?

Ms. BARRA. That is all captured in, you know, very specific documents.

Mrs. BLACKBURN. How transparent is it? Is it transparent to the——

Ms. BARRA. It is——

Mrs. BLACKBURN [continuing]. Engineer?

Ms. BARRA. It is available to the engineers, to the chief engineers in the organization.

Mrs. BLACKBURN. OK, was this done, when the switch was approved in '02 and redesigned in '06?

Ms. BARRA. No, what I am talking about is what we have done this year.

Mrs. BLACKBURN. OK, so this was not done. So we still have—there was a glitch in the system and people approved a part that was not OK.

Ms. BARRA. Well, the problem with the specific change you are referring to was that change was made and it was not documented.

Mrs. BLACKBURN. OK, then how does a GM engineer know when there is a deviation from a specification if it is too much or too little, or if it is acceptable or if it is going to pose a safety problem?

Ms. BARRA. Again, there are a couple of aspects of this that you have to look at, but if you go back to when those changes were made and it wasn't documented, the records were not there to document there was a change, and that was something that is unacceptable, and the individual who didn't document that is no longer with the company. I am telling you that as you do good engineering, you are going to make sure you understand the requirements of what you are designing, make sure the part, the subsystem, the system meets those requirements, and have full documentation.

Mrs. BLACKBURN. OK. All right, I will yield back.

Mr. MURPHY. The gentlelady yields back.

Now recognize Mr. Braley for 5 minutes.

Mr. BRALEY. Thank you, Mr. Chairman.

Ms. Barra, welcome back. Mr. Valukas, welcome to the committee.

Ms. Barra, I want to start with some of the comments you made in your opening remarks. I have a couple of questions I want to talk to you about.

You mentioned specifically that you had promised that you would conduct a comprehensive and transparent investigation. Do you believe that that was accomplished?

Ms. BARRA. I think the Valukas report was comprehensive. It was very far-reaching and we have shared that information.

Mr. BRALEY. And you also said that you promised you would share the findings of the report with Congress, our regulators, NHTSA and the courts.

This is a copy of the report that we received, and it states on the very front page of the report, privileged and confidential, protected by attorney-client privilege and as attorney work product. You indicated that you hired Mr. Valukas to do this independent investigation, but it is obvious from the report that you considered this to be an attorney-client relationship, and the report itself has sections blacked out so that we, on this panel, don't know who some of the victims were that are identified in the report. Were you aware of that?

Ms. BARRA. Yes.

Mr. BRALEY. You also indicated that you would engage Mr. Feinberg to develop a just and timely program for compensating the families who lost loved ones, and those who had suffered a serious physical injury, including the families who are represented here today. There was a recent news report from the Detroit News which indicated that Mr. Feinberg has confirmed that the compensation fund will not in any way address people who weren't killed, people who weren't seriously injured, whose value of the automobiles they purchased has been diminished because of all the controversy over these parts that we have been talking about. Were you aware of that?

Ms. BARRA. The compensation program that Mr. Feinberg will independently administer is for those who lost loved ones or those who suffered seriously physical injury. The issue of the value of the vehicle is in front of the courts.

Mr. BRALEY. And that will not be addressed by Mr. Feinberg?

Ms. BARRA. That is correct.

Mr. BRALEY. Now, one of the things that we know is that this year alone, GM has issued an astonishing 44 recalls, covering 17.7 million vehicles in the U.S., and more than 20 million worldwide. How many of those recalls, to your knowledge, relate to problems that were known to someone in GM before the bankruptcy sale order of July 2009?

Ms. BARRA. At the senior level of the company, none, or the action would have been taken.

Mr. BRALEY. So it is your testimony that none of those are covered.

Ms. BARRA. I am not sure what you just said.

Mr. BRALEY. You are saying here today that none of the recalls that have been initiated this year relate to problems known to someone at GM before the bankruptcy sale order in July of 2009.

Ms. BARRA. What I said was the senior leadership had no knowledge of those issues——

Mr. BRALEY. And that is not my question. You did a very exhaustive investigation into the cultural problems at GM.

Ms. BARRA. Yes, we did.

Mr. BRALEY. My question is, as part of that investigation, did you identify anyone working at GM who had knowledge relating to those product recalls that covered products affected by that bankruptcy discharge order in July of 2009?

Ms. BARRA. Again, if there was a known safety issue, there would have been a recall done.

Mr. BRALEY. Did you attempt to determine that?

Ms. BARRA. I was not involved in that process so I can't comment.

Mr. BRALEY. Isn't it possible that that discharge order contributed to GM's lax approach to safety defects on cars built by the old GM?

Ms. BARRA. Absolutely not.

Mr. BRALEY. Well, we have talked a lot about this culture of irresponsibility at GM. You have testified about it. It is covered in Mr. Valukas' report. How can you say absolutely not when you haven't even focused on that issue?

Ms. BARRA. Evidence of that is there were many recalls that were conducted during that period of time, but I would say now with—we have re-doubled our efforts, and we have gone back even more exhaustively than looking at data from TREAD, data from customer feedback, and we are now even—with the product integrity organization, it is already accomplishing its task of going and looking at how the vehicle performs to a higher level, to ensure we have the safest vehicles.

Mr. BRALEY. Mr. Valukas, you focused on this culture at GM in your report. You weren't here the first time when I showed Ms. Barra the screwdriver that was handed out by General Motors in the '70s and '80s as a promotional item, and it says safety comes first at GM on this screwdriver. As part of your investigation into the history and culture of GM, did you look back at to whether the old GM had made safety a priority the same way that Ms. Barra says the new GM is committed to it here today, and aren't there institutional problems that are much far-reaching—much more far-reaching than simply firing 15 employees?

Mr. VALUKAS. Congressman, good question. We looked back and solicited from everybody that we interviewed information about whether something they—something in the culture caused them to do something differently than they otherwise would have done, or whether safety became a secondary issue. Almost uniformly, people would say to us safety was the top priority, but we identified in this report all of the instances of which we were aware relating to this matter where people took a different position, so it is there. And I would not ascribe to everybody the conduct of the people involved here, but I do say that culture had something to do with the reason why this recall took so long.

Mr. BRALEY. My time is up. Thank you——

Mr. VALUKAS. Thank you.

Mr. BRALEY [continuing]. For your testimony.

Ms. MURPHY. Thank you.

Now recognize Mr. Barton of Texas for 5 minutes.

Mr. BARTON. Thank you, Mr. Chairman. Ms. Barra, we are glad to have you back, and Mr. Valukas, we are glad to have you before us.

Our opportunity or responsibility on the committee is to provide for the general welfare, and in doing that, get the facts on the table so that people can have faith that the products that your company produces are safe. And, of course, your requirement is to make sure that you do produce a safe product that hopefully results in a profit for the company and the stockholder, but we are both on the same side. We both want products that are safe, and let the public be aware of the capabilities, but also the shortfalls.

I am going to ask most of my questions to Mr. Valukas, simply because we didn't have your report last time, but I will have one or two questions for Ms. Barra at the end of my time.

I want to focus on the fact that the part number was not changed back in April of 2006. A GM engineer did approve changes to the ignition switch, but did not change the part number. And, Mr. Valukas, in your report, you observed that the decision to not change the part number was not properly vetted or scrutinized. You note that a Mr. DeGiorgio did not recall why he did not change the part number. Is that correct, is that what your report says?

Mr. VALUKAS. Mr. DeGiorgio told us that he did not change the part number, and that as he looked back at it, that he reflected that he should have changed the part number.

Mr. BARTON. OK. And apparently, and obviously, that is very important because you have a part number change, then that creates a paper trail, there was some sort of a problem that had to be corrected, and if you are doing an investigation, you can compare, and from that time forward, see if the problem was fixed.

Now, I want to direct your attention to that big binder that we have right between you and Ms. Barra, and on tab 35——

Ms. VALUKAS. Thirty-five?

Mr. BARTON. Yes, sir, 3–5.

Mr. VALUKAS. Give me a moment.

Mr. BARTON. There is an April 5 chain of e-mails between this Mr. DeGiorgio and the engineers at the switch supplier, Delphi, and some other GM employees. Attached to that exchange is a spreadsheet of upcoming changes to the Delta ignition switch. Can you locate that?

Mr. VALUKAS. I think I have it, yes.

Mr. BARTON. OK. Now, it is interesting to me that these OK, the subject is not anything that is safety-related. The subject matter is Delta ignition switch changes, tooling tweaks, increased process capability. And then in the e-mail it talks about this is a black box design, and they want to change the part to increase the process capability. This will improve the fallout rate at the Delphi Condura plant.

Well, first of all, what is a fallout rate?

Mr. VALUKAS. I presume it is the rate in which something fails.

Mr. BARTON. OK. So if you improve the fallout rate, that means you are going to decrease the number of failures. Is it important, in your mind, that since they talk about a black box, apparently, anything within the black box they don't have to be too worried about it as long as everything in the black box works as specified,

because there, apparently, in retrospect, is quite a bit of commentary about, well, we didn't really pay much attention because it was all within the black box.

Mr. VALUKAS. Well, that is the commentary, but the general rules are to change fit, form or function, whether it is in the black box or otherwise, the part number ought to change. And in this situation, particular to this aspect of it which is increasing the torque, that would fall within one of those 3 categories. And I think you can find an explanation, black box, but even Mr. DeGiorgio in his interview with us conceded that this was a change in fit, form and function, and would have required a change in the part number. And the consequences were devastating over the years. This was not the only time. That issue came up four times, as you properly note, where people came back to him and said did something change, and he said no, and that is one of the reasons why this took a decade.

Mr. BARTON. Well, do you think that this particular e-mail exchange, they knew they had a safety problem and they are couching their phraseology differently to hide it, because they don't really talk about a torque issue or anything, they are talking about a fallout rate and—within the black box. Do you think this was intentional or——

Mr. VALUKAS. No.

Mr. BARTON. You don't.

Mr. VALUKAS. I don't. Let me put it this way. We have not been given access to the Delphi witnesses. We have not been permitted to interview them, and our receipt of documents has been limited from them. On the GM side of the process, the answer to that question is no.

Mr. BARTON. OK. And, Ms. Barra, In the time that I don't have anymore, my question to you, Mrs. Blackburn tried to elucidate an answer from you about a change in culture, and the fact that, even where they are making these specification changes, that they didn't meet the specification as, wasn't that a problem and shouldn't you make sure that everything meets your specifications. And your answer was, well, if the overall system works, it is OK. Now, to me, that doesn't represent a cultural change. And I have talked to the General Motors, the engineers and management team in my district down in Arlington, and they are vocally insistent that they are not going to use any part in their plant that doesn't meet the specification and operate just as it is supposed to.

Ms. BARRA. I totally agree with you. A part needs to operate just as it is supposed to, and there has been significant change. First of all, everything that is done, it is documented, it has gone through a validation process, it has also gone through a systems integration, so it is much more rigorous. And knowing that the part is good, and that the system is going to act, or the vehicle is going to perform safely and with quality. And as it relates to making a part change, absolutely acceptable. I ran an assembly plant and I totally agree with the people that you have talked to at the Arlington plant. If you do not have a documented part number you shouldn't be changing parts. So their answer is absolutely correct, and I appreciate the fact that they are committed to do that.

Mr. BARTON. Thank you, Mr. Chairman.

Mr. MURPHY. Thank you. The gentleman's time has expired.

Recognize Mr. Butterfield for 5 minutes.

Mr. BUTTERFIELD. Thank you very much, Mr. Chairman. You know, Mr. Chairman, it is an unspeakable tragedy that so many families have suffered as a result of these shortcomings of General Motors, and some of these families are with us today. And as feeble as it may be, I simply want to offer my condolences to the families who have been affected.

Let me start with you, Ms. Barra. Is it Barra or Barra?

Ms. BARRA. It is Barra.

Mr. BUTTERFIELD. OK. We have had a little debate about that back here, but, Ms. Barra, Mr. Boyer, who is on the public record as stating that the company has hired 40 new defect investigators. How many of these individuals will be new to the company?

Ms. BARRA. I can't speak specifically, but I can tell you that I believe most of them came from within the company, they—but they came, and I know how the selection process was, and they were some of our very best engineers across the company, so they knew a broad—together, collectively, they knew a broad array of parts and systems in the vehicle.

Mr. BUTTERFIELD. Well, our information——

Ms. BARRA. They were handpicked.

Mr. BUTTERFIELD. Our information and in acting with your company suggests that all 40 of these new individuals would be promoted from within the company. Do you dispute that?

Ms. BARRA. As I said, I believe—I knew the lion's share—I can't tell you if one or two came from outside. I know we did an exhaustive search inside to get some of the best and most experienced engineers into this role.

Mr. BUTTERFIELD. Well, I think you have heard the theme throughout this committee today on both sides of the aisle that we are talking about a new culture within the company——

Ms. BARRA. Yes.

Mr. BUTTERFIELD [continuing]. And I would strongly suggest that you look at bringing in some outside fresh blood to run that part of the company.

How many vehicles has General Motors recalled since the Cobalt recall began in February? I have heard 40 million, but I know that is over a period of years, but how many actually have been recalled since February of this year?

Ms. BARRA. I have to add up the count. I don't know if we have that information.

Mr. BUTTERFIELD. Hundreds of thousands?

Ms. BARRA. It is several millions. In the tens of millions.

Mr. BUTTERFIELD. And let me ask you this. How are vehicle owners informed by GM about these recalls? Do you e-mail them, do you mail them, how do you do it?

Ms. BARRA. Well, first of all, we follow what the regulations are, the NHTSA process. So we send a letter, but we have gone above and beyond that. We have sent additional letters in addition to the ones that are required as part of the NHTSA process. We have also gone out on social media, we have also hired more than 100 people to work in our customer engagement centers to call and reach out to these individuals. We also know dealers who have been great

partners in this, have, in many cases, gone out and contacted or received calls and explained the situation.

Mr. BUTTERFIELD. So you go beyond. You go beyond——

Ms. BARRA. We have gone well beyond——

Mr. BUTTERFIELD [continuing]. Just sending a letter to the address of record?

Ms. BARRA. Absolutely.

Mr. BUTTERFIELD. That is reassuring. When you communicate with vehicle owners, are they informed of the seriousness of these safety hazards posed by the ignition switch?

Ms. BARRA. Yes, in fact, very specifically in the letter it states that to operate the vehicle safely, that you need to have the key or just the key in the ring, and take everything off your key ring. We have also to these individuals, as you know, made, if they are still uncomfortable, although we have demonstrated and NHTSA has reviewed and said it is safe to operate the vehicles this way, again, with the key or the ring, if the individual still is uncomfortable, because we are customer-focused, we are putting these individuals into loaner or rental vehicles.

Mr. BUTTERFIELD. And what percentage of the people who were notified actually bring the cars back into the dealer?

Ms. BARRA. Well, in general, we are in the 80s, and I have been told we are one of the highest of how we complete recalls, but in this case, we are still working through it.

Mr. BUTTERFIELD. And once there, how long does it take to get it fixed?

Ms. BARRA. It is a matter of an hour or so.

Mr. BUTTERFIELD. Just a couple of hours, it can——

Ms. BARRA. Right.

Mr. BUTTERFIELD [continuing]. It can get done. It seems like there is a large volume of recalls, according to your testimony, and I am more concerned about how safely and timely can these corrections be made. I mean——

Ms. BARRA. Well, we have——

Mr. BUTTERFIELD. With the large volume that——

Ms. BARRA. Yes.

Mr. BUTTERFIELD [continuing]. You are talking about.

Ms. BARRA. Right.

Mr. BUTTERFIELD. You are talking about millions of cars.

Ms. BARRA. Right, but if you look at——

Mr. BUTTERFIELD. Yes.

Ms. BARRA [continuing]. In some cases it is replacing a part, in some cases it is as simple as making sure a connection was made. In other cases, for instance, in some of our crossover vehicles, over time a crimp of an electrical connection where it is simply going back and re-crimping and soldering that. We have been exhaustive, and I know it sounds like a large number of vehicles, it is, but we want to do the right thing for our customers. To my knowledge, this is the most expansive, comprehensive review we have done, because in some cases we are acting on vehicles where there is no TREAD data even to support there is an issue, but as we went in and looked at the subsystem performance, we wanted to make sure we were acting safely.

Mr. BUTTERFIELD. One dealer can do dozens in a single day?

Ms. BARRA. I am sorry?

Mr. BUTTERFIELD. One dealer, one large dealer, could do dozens in a single day.

Ms. BARRA. Dozens. Actually, we have dealers that are extending their hours and their service department to be responsive to customers to get these repairs made.

Mr. BUTTERFIELD. Finally, is GM currently investigating ignition systems of any other product lines which have not been recalled to date?

Ms. BARRA. We will continue, as I said, we plan to be substantially complete by the end of this month with the additional people we have put in, but we are going to continue until we are confident that if there are any issues on our vehicles, whether it is a different safety system or ignition switch, that we have reviewed it.

Mr. BUTTERFIELD. Thank you. Mr. Valukas, we live by the clock up here, I am sorry.

Mr. MURPHY. Thank you.

Mr. BUTTERFIELD. We will get you next time.

Ms. MURPHY. Now recognize Dr. Burgess for 5 minutes.

Mr. BURGESS. Thank you, Mr. Chairman. And, Ms. Barra, if we could just continue on that line of questioning that Mr. Butterfield was pursuing. How are your dealers, how are they holding up under what must be a massive onslaught of people needing their cars fixed?

Ms. BARRA. Our dealers are doing a tremendous job of supporting the customer. As I said, we have many dealers who are reaching out. We have had dealers who had a customer that was several miles away, for instance, there was one who they were concerned because their daughter had the vehicle and there wasn't a dealership close by. The dealer went back and forth and got the vehicle, got the repair made, and gave a loaner. So I can't be more proud of how our dealers are supporting the customer.

Mr. BURGESS. But yet, you have millions of cars that need to get in and be attended to. Pretty hard to provide a loaner car for that population.

Ms. BARRA. Well, first of all, most dealers for a simple repair have loaner programs. It depends on the dealer and the issue, but on specifically the Cobalt and that population of vehicles, we are providing loaners or rentals, and we have worked with rental companies to make sure they have enough vehicles to do that, but again, in many of these cases, even though the vehicle is recall, it is a very simple visual inspection to know if the vehicle is OK or not, and the dealers are very equipped to do that with their service technicians.

Mr. BURGESS. And I just recall being on this committee when we went through this with Toyota back in 2009, the Toyota dealership in the district that I represent had extended hours, would stay open until late at night to accommodate people who otherwise were working and couldn't get in. And you feel that that is the case currently with the GM dealers?

Ms. BARRA. I absolutely do. I have spoken to hundreds of dealers, and I know our North America president, Alan Batey, has also—we have regular communications——

Mr. BURGESS. But——

Ms. BARRA [continuing]. As they share with——

Mr. BURGESS [continuing]. Let me interrupt just because my time is going to run out. How are you doing—what seems to be the chokepoint in this? Is it getting the part to the dealer?

Ms. BARRA. Actually, we have produced and shipped over 400,000 parts. The challenge is getting the customer to come in and get the vehicle repaired, and that is why we have employed a lot of innovative ways to do that, and that is why the dealers are reaching out.

Mr. BURGESS. And yet, in a story in the New York Times either yesterday or today, people talk about receiving multiple postcards, you have to come in and get your car fixed, and they say I have tried but they don't have the part available for me. Are we going to start hearing less and less of those stories?

Ms. BARRA. I think we should because we start another line within a week, so we are continuing to ramp up, but right now, we do have the parts, but we have tried to be incredibly fair and that—in a first-come-first-serve basis as customers raise their issues. Some of the postcards that we have sent are because they are required on a frequency by law, and we are complying with the law.

Mr. BURGESS. Thank you.

Mr. Valukas, let me ask you a couple of questions. And I think I understood from your introduction that you are a trial attorney, is that correct?

Mr. VALUKAS. I am.

Mr. BURGESS. I mean I have to tell you, at some point, were you just pulling your hair out over some of these things that—as your investigation churned through this information? Let me specifically—you have the binder in front of you. I don't have—mine is not divided up into tabs, but page 119——

Mr. VALUKAS. Of the report?

Mr. BURGESS. In your report.

Mr. VALUKAS. Thank you.

Mr. BURGESS. Here is a paragraph, witnesses have inconsistent recollection as to whether the product investigations group became involved in the Cobalt airbag non-deployment issues at this stage. Everest reports that in April '07, the FDA group transitioned the Cobalt airbag matter to the PI Group where it was taken on by an engineer named Eric Buddrius. Documents in Buddrius' file indicate he was working on the issue, and a May 4, 2007, investigation status review presentation planning worksheet states that he was scheduled to present on an issue described as Cobalt airbag discussion item. Buddrius had no recollection of the involvement. I mean they were right up to the point where they had an answer, and now this guy doesn't even remember working on it. Was that pretty frustrating from a trial lawyer's perspective?

Mr. VALUKAS. One of the key problems we found is the lack of documentation, which led to lack of accountability. And I think a classic example of that was what happened in 2005, when we went back to find out why did they close the investigation into the Cobalt issue, and we found ourselves in a position where there were no notes with regard to the matter, everybody at the meeting pointed to somebody else in the meeting has having responsibility for having closed the matter, but we could not ascertain who actually

had that responsibility, or what were the circumstances which caused the closure to take place.

Mr. BURGESS. All right.

Mr. VALUKAS. And that lack of accountability is reflected in so many of those areas. When we went back, we were dealing in many instances with no documents.

Mr. BURGESS. Well, let me just ask you, because I am going to run out of time. The 15 individuals have been terminated by General Motors, is that correct, but we can't know those 15—as we read through this report, we can't know the names of those 15 individuals because of employee privacy concerns, is that correct?

Ms. BARRA. It has been submitted to the committee.

Mr. BURGESS. It has been submitted to the committee?

Ms. BARRA. It has been—but we have asked that it be confidential to respect the——

Mr. BURGESS. All right——

Ms. BARRA [continuing]. Privacy.

Mr. BURGESS [continuing]. Thank you for that. Can you just tell us what was the basis for termination, because I go through this, it looks like a lot more than 15 people should have been terminated.

Ms. BARRA. Yes, and there was a senior group of my leaders that we looked, we read the report, and we were very thorough in looking at those who we believed didn't take the actions they should, and then those who simply didn't move with a sense of urgency. The people closest to us over a repeated period of time are those who are no longer with the company.

Mr. MURPHY. Thank you.

Mr. BURGESS. Thank you.

Mr. MURPHY. All right. Now recognize Mr. Green for 5 minutes.

Mr. GREEN. Thank you, Mr. Chairman, and thank you for doing the follow-up hearing.

Ms. Barra, you said that you had shipped 400,000 parts. Was that for the ignition issue?

Ms. BARRA. Yes, I was specifically referring——

Ms. GREEN. How many——

Ms. BARRA [continuing]. To the ignitions——

Mr. GREEN. How many do you estimate were recalled or the need—how many were recalled, because I keep hearing 16 million, but I know there are other——

Ms. BARRA. OK.

Mr. GREEN [continuing]. Issues.

Ms. BARRA. Of the specific ignition switch cylinder, because it is a kit now that we put together, the total number of vehicles produced globally was over 2.6 million. Now, we know not all of those are still in service today, and we have built kits to service the 2.6 population. We are already over 400,000. We will be complete by August 4—or, excuse me, October 4.

Mr. GREEN. OK. You have been vocal about GM's effort to change its corporate culture, which you describe in our last hearing in April as a cost culture. Mr. Valukas, can you describe some of the problems you saw with the corporate culture in your report, talk about the GM nod and the GM salute. What do these refer to?

Mr. VALUKAS. Well, let me be specific on that. The GM—without using those phrases, you had a situation where it took a plaintiff's lawyer to do the simple thing of comparing two switches; one from 2006 with one from 2009, to find out that GM had manufactured two separate switches. No one goes back to revisit previously-made decisions, so they are stuck in if it is the decision we have made, we don't go back and revisit and look to see if there is something else. We have a situation where you had silos, you had people within GM who had certain levels of information that was not shared with other individuals, and so when the other individuals found that information, for instance, the Indiana report, Officer Young's report, that information was ultimately supplied by third parties outside of GM. GM did not know that they had that information within their own files, at least some of that information, on files and some of it was in public records. You had circumstances where, among other things, you have a sensitivity to the use of the word stalls, which might have created for someone the impression that maybe we stay away from using words which will force people to ask hard questions, rather than taking an approach in which you ask the hard questions and——

Mr. GREEN. OK. OK.

Mr. VALUKAS [continuing]. Take whatever those answers are. So we found instances of that which had a significant impact on—at least in terms of the finding information, impact on how the investigation of the Cobalt switch——

Mr. GREEN. Well, it sounds like the old GM's culture was mostly let us not talk about a problem. Is that what it is, without notes, and I understand we are both lawyers, you may say, well, I don't want to take notes because somebody can subpoena them, so GM just put them under the rug and now it is coming home to roost.

Ms. Barra, in our last hearing, you referred to the new GM in your responses to you questions, the culture would change under your leadership. You testified that GM created a new vice president of global vehicle safety, it was filled by Jeff Boyer, and I know you have been with GM a number of years, and Mr. Boyer has been with GM?

Ms. BARRA. Yes, he has been——

Mr. GREEN. And so you all both worked for the old GM. Can you tell me what is going to be different in the new GM, even though everybody in the 40 inspectors that Congressman Butterfield talked about, are GM. You need a culture change and not just verbiage.

Ms. BARRA. I completely agree with you, so it will be the actions we take, the actions we are taking, but I can also tell you that the men and women of General Motors, the vast majority come to work every day and they want to do a good job. They heard me talk about this report. They are as deeply troubled as I am, and they are taking action, and we are creating a culture. I have evidence of it every day where employees are coming forward, they want to do the right thing, they want to produce high quality safe vehicles.

Mr. GREEN. Well, and I only have a minute, and I agree, but that needs to continue because I also know how it works on the shop floor, that, oh, don't talk about that, just do your job, and that is what got GM into this position.

Your company set up a compensation fund for victims of this fault, in recognizing that no amount of money can replace a loved one or can compensate for someone who is terribly injured, how would that fund be administered, and what in the mere total do you expect to compensate the victims with? Have you announced a total for that?

Ms. BARRA. We haven't announced a total. Again, it is being run by Ken Feinberg, who is known as an expert in this area. He will have complete——

Mr. GREEN. I am familiar with Mr. Feinberg from the——

Ms. BARRA. He will——

Mr. GREEN [continuing]. BP.

Ms. BARRA [continuing]. Have complete independence, but I think it is important to note that General Motors wants to reach with this compensation program everyone who lost a loved one due to this issue, or suffered serious physical injury, and that is what we have communicated to Mr. Feinberg.

Mr. GREEN. Well, I am out of time, but there are a whole lot of GM customers out there who are frustrated because over the decade have been loyal, but now we are seeing the 16 million recalls. There is a problem, and I hope you will have it fixed.

But, Mr. Chairman, I would hope we would continue this to make sure it is fixed.

And I yield back my time.

Mr. MURPHY. Gentleman yields back.

I now recognize Dr. Gingrey for 5 minutes.

Mr. GINGREY. Ms. Barra, I want to ask you a question about the situation in the Cobalt. If one of my two, or twin, 16-year-old granddaughters driving in the Cobalt and inadvertently the ignition turns to the accessory position, if they, who just got their driver's license 3 months ago, I would think that their initial reaction would be to try to turn the car back on, start the car back again, although it is in drive and it is not in neutral, would the car start back up?

Ms. BARRA. Well, first of all, if they were driving the vehicle and they had just the key in the ring, this condition shouldn't happen.

Mr. GINGREY. No, but if it did happen.

Ms. BARRA. So——

Mr. GINGREY. Let us assume that it did happen.

Ms. BARRA. OK, so then you have to restart the car. I guess——

Mr. GINGREY. I think the answer is——

Ms. BARRA [continuing]. You would have to go——

Mr. GINGREY. You would have to put it in neutral——

Ms. BARRA. Put it in neutral or park, right.

Dr. GINGREY [continuing]. Before it would start. And that would be pretty hard for a 16-year-old, inexperienced driver to even think of, with an 18-wheeler bearing down on them. And as I listen and the other hearing that you were at several weeks ago, General Motors has got to have the best engineers in the world, whether they are electrical engineers or mechanical engineers, probably both. How in the world would they not know that when the vehicle, when the ignition inadvertently, because of the low torque, and it shifts to the accessory position, the engine stalls, that that would also deactivate the airbags? I would think that that kind of testing

is done to a fare-thee-well before a vehicle is approved for sale. I mean, well, how could they not know that?

Ms. BARRA. I can't speculate on why they didn't know. What I can tell you is any time a vehicle stalls now, we consider it to be a safety issue, and if we find that there is a malfunction in a part or a defect in a part that causes the stall to occur, we are going to——

Mr. GINGREY. Well, I would say a safety issue indeed if a side airbag would not inflate if somebody got T-boned in the middle of an intersection when this happened, and a young person, even an experienced driver of 40 years, is not going to think that quickly.

Mr. Valukas, and I think you alluded to this a few minutes ago, if not for the Brooke Melton lawsuit, and Brooke's—I can't see the back of the room but her picture may be up there on the wall. She is in my district in Paulding County, Georgia, 11th Congressional District of Georgia. If not for the Brooke Melton lawsuit, and she was killed, and the fact that her lawyers figured out that the ignition switch part from model year 2008 was different from model years 2005, '06 and '07, in the Cobalt, would we even know about this ignition switch problem today? Would we even be aware of it?

Mr. VALUKAS. The answer is yes, because there was an open and, at that point, significant investigation going on at that particular point, and certainly, there was information and evidence that was accumulating as they were going forward, pointing to the fact that they had these non-deployments, pointing to the fact they had fatalities, and pointing to the fact——

Mr. GINGREY. Well——

Mr. VALUKAS [continuing]. That the switch had something to do with it.

Mr. GINGREY. Well, that smacks——

Mr. VALUKAS. I mean——

Mr. GINGREY. That smacks of a big cover-up to me. And after General Motors learned of this change, it took months for GM outside experts to confirm that there had been a change. Why did this take so long?

Mr. VALUKAS. I don't have a good answer for that. I can tell you it did take that long. I can tell you that from the time of April of 2013, when that deposition took place, they knew or should have known at that—or they knew at that point that they had two different switches, and they gave it to Mr. Mellady, the expert, and he came back with his confirmation of what they were given in the way of information in April, and that took until almost October.

Mr. GINGREY. Yes, it is amazing, and that when the issue was presented to decisionmakers in December, no recall was announced. It took another month and a half before GM finally decided to recall the Cobalt.

What information was missing in December that prevented GM from issuing a recall at that time? Ms. Barra, can you tell me?

Ms. BARRA. I can't talk about the specific information. I think we do know that not all the information was presented at that meeting. I would say when the right information was in front of that group, they did make the right decision, but I would also say, and I have said publically——

Mr. GINGREY. Well, let me just say in my concluding 35 seconds, this whole sequence, this whole sequence, from the time the company learned of a potential difference in the parts during the Melton litigation, to the time the recalls were announced, took 10 months. Ms. Barra, why the foot-drag? Is this typical of GM's investigations into a product concern, and how do you intend to change this?

Ms. BARRA. Well, we already have with the way we are working through recalls today. We have changed that process. It is expedited, and the most senior levels of the company are involved in it, and I think, again, although I don't want to do recalls, we are going to do what is right for our customers, and we are demonstrating it today.

Mr. GINGREY. Thank you. And I yield back.

Mr. MURPHY. I should ask a clarifying question because the doctor referred to it, and a number of Members have asked with regard to the word cover-up. Can you define what cover-up means, Mr. Valukas?

Mr. VALUKAS. In this instance, what we looked for was any evidence that individuals knew that they had a safety issue, and took steps to conceal the fact that they had a safety issue. That is what we were looking for in terms of cover-up. And then we interviewed individuals, we asked them questions to gather the facts to see whether, in fact, that had taken place, and we sought to test those facts against the documents that we were reviewing. So if someone knew something on a given day, we identified that and we took steps to see whether they concealed what they knew from other individuals. We did not find that. That is what I am talking about.

Mr. MURPHY. Does your definition also include if people slow-walked moving on safety issues——

Mr. VALUKAS. If it was a——

Mr. MURPHY [continuing]. Is that also a cover-up?

Mr. VALUKAS. If it was a—pardon me, I don't mean to interrupt.

Mr. MURPHY. That is OK.

Mr. VALUKAS. If it was deliberately done, then it would encompass something like that. If it was a matter of someone being in a position, for instance, when one of the investigators was given the assignment, he was given no deadline, he was given no sense of urgency, so he put it into the queue with other investigation and it took its time. That I would not call a cover-up, I would call that something other than that.

Mr. MURPHY. Thank you.

All right, Mr. Yarmuth, you are recognized for 5 minutes.

Mr. YARMUTH. Thank you, Mr. Chairman.

Ms. Barra, welcome back to the committee. When you were here on April 1, I told you that a member of my staff had had a Chevrolet Malibu that was subject to a recall. She found that out by going on the Web site, not through any personal notification. And she inquired of the dealership, how she should proceed and they said there is no fix, and I presented you with that dilemma and you said at the time there is a fix, whether it is a check or a replacement of the product, but that fix does exist for that specific vehicle. Well, I have here the important safety recall that she just received on Monday, so that is 2 ½ months after you appeared here

on April 1, notifying her of the recall, saying that her vehicle may experience a sudden loss of power steering assist, and then other language, which could result in an increased risk of a crash, and also informed her that the part doesn't exist yet to fix the product.

So when you consider that situation, a different vehicle, different problem, with the ignition problem that we have focused on, and you have already said that many of these vehicles will not be fixed, the ignition problem, until October, those parts won't be available, what are consumers supposed to do when they are going a period of up to 6 months or longer without any way to fix their vehicle? How can they assess the risk? I don't know what my staffer should do. There is no—I mean I see all the pharmaceutical products, the long list of possible side-effects, and you have to calculate the risk, but would you advise or would you let your son or daughter drive these vehicles now with the level of risk that you may know more about than we do?

Ms. BARRA. Well, on the Cobalt specifically, we have done extensive testing on driving the vehicle with the key or the key in the ring, and it has validated that it is safe. We have also reviewed that with the technical experts at NHTSA and they have concurred. So, in that case, those vehicles are demonstrated safe to drive.

Just in general, if people have concerns, they can go to their dealer or they can call our customer engagement center and we walk them through the specifics of their specific issue, because, again, in many of the recalls that we have done, it is not a part replace, it is a visual check, and depending on what happens, it would be what needs to be repaired. So each individual recall has a slightly different look and feel to it.

Mr. YARMUTH. So I know you have talked about the possibility of loaner vehicles and rental cars and so forth, but—and I understand the difficulty with a supplier gearing up to produce a part that they may not have made in 4 or 5 years, and they have to all of a sudden come up with several million of them. We have a part manufacturer in Kentucky in my district that services Peterbilt trucks, and I have been to theirs and I know how much work they have to do, but again, is there any reliable alternative to these consumers who, again, face a very important decision as to whether—I mean I don't know what the risk—of whether NHTSA has assessed the risk with regard to power steering assist, whether that is significant or not, but there are a lot of consumers out there, I am sure, who are wondering whether they should be driving or not.

Ms. BARRA. Again, I would encourage them to call our customer engagement center or talk to the dealer, and we can talk about the specific situation.

Mr. YARMUTH. OK. I have no other questions.

Ms. DEGETTE. The gentleman——

Mr. YARMUTH. Yes, I am sorry, yield to the ranking member.

Ms. DEGETTE. I just wanted to ask you a question, Ms. Barra, since there is a little time here.

So you had testified that out of the roughly 2.6 million of these cars that were recalled, you guys have sent 400,000 parts out to your dealers, is that right?

Ms. BARRA. Produced and shipped.

Ms. DEGETTE. I am sorry?

Ms. BARRA. Yes

Ms. DEGETTE. Yes, roughly. And as of Monday, it looks like about only 177,000 of these vehicles have been repaired. And you had testified a little bit earlier—so that is 177,000 vehicles out of 2.6 million vehicles. And we have talked about this before. This is one of our big concerns in this committee, is how do we get those folks to take in those recalled vehicles to be repaired, and you said you are looking at some innovative ways to do that. I am wondering if you could just take a few seconds to talk about how GM is trying to get those people to take those cars in.

Ms. BARRA. Well, we are doing a lot on social media, and we are looking at the populations especially, some of these vehicles are older vehicles, so we have done actual research to figure out what messages would be most compelling to have these individuals come in to get their vehicles fixed. I would also say we are, the dealers are working to do specific arrangements with each individual to make it as inconvenient or to——

Ms. DEGETTE. As convenient.

Ms. BARRA. As convenient as possible, to reduce the inconvenience. And so there are a number of steps. You know, right now, we are in a——

Ms. DEGETTE. Or let me ask you because we are——

Mr. MURPHY. No, we are——

Ms. DEGETTE [continuing]. Can you meet the October 4 NHTSA deadline?

Ms. BARRA. We are on track. I have talked to the CEOs of the companies making these parts, and we monitor it on a daily basis.

Ms. DEGETTE. OK.

Mr. MURPHY. All right, thank you.

OK, Mr. Olson, 5 minutes.

Mr. OLSON. I thank the chair. And welcome, Ms. Barra, and, Mr. Valukas.

I approach issues like these from the perspective as a Naval officer and a pilot. Leaders in The Navy are called skippers. Good skippers give credit for others who do good. When good things happen in a squadron, they give credit to others. Bad skippers take all—I'm sorry. Good skippers give the credit and take all the blame. By that definition, Ms. Barra, you are a decent skipper, but people have died because of GM's defective product.

As we knew, and Mr. Valukas' report shows clearly, those deaths occurred because our ship, GM, had some problems that can't be fixed overnight. As GM's skipper, the burden to fix these problems is upon you, ma'am. Squarely upon you, and I think you know that. GM has to rebuild its trust with the American people, and part of that trust is being straightforward on the number of deaths that have occurred because of these defective Cobalts.

You have testified that 13 deaths occurred because of these cars, is that right, ma'am?

Ms. BARRA. I have testified that with the information we have——

Mr. OLSON. OK.

Ms. BARRA [continuing]. We believe that the ignition switch may have been related to 13, but I don't have all the information.

Mr. OLSON. OK, because that is a problem because on the wall behind you, there are 15 photographs of tragedy and loss from Cobalt vehicles.

Ms. BARRA. And that is why we are doing the compensation program. It will be independently administered by Mr. Feinberg, and I can assure you that I and General Motors want to make sure that anybody who was harmed as a result of the ignition switch defect is a part of that program.

Mr. OLSON. I will get to that compensation fund later.

How about injuries? Any number of injuries you think that has been caused by defective Cobalt—injuries, not deaths but injuries? What is the number? Any idea, ballpark?

Ms. BARRA. Again, I don't have the specific number in front of me, but we don't have a complete number because we only have the information that is available to us, but again, that is why Mr. Feinberg, who is an expert in doing this, and we want to have everybody who had suffered serious physical injury or suffered the loss of a loved one, we want everyone to be a part of this program.

Mr. OLSON. And thank you very much, Mr. Feinberg because, as you know, restoring the trust of the American people, part of that is having a viable, robust compensation program for the victims' families. And I know you have tasked Mr. Feinberg, as you have mentioned, to evaluate options for the compensation trust fund, my question is, from your opening statements, it sounds like GM has not put any limits on Mr. Feinberg. Is that true? No limits on the compensation? What is—he has got all options out there to determine the compensation trust fund?

Ms. BARRA. I didn't hear the beginning of your question, I am sorry.

Mr. OLSON. The question is, you have tasked Mr. Feinberg to have this compensation fund, are there any limits upon him because he is out there doing whatever he wants to do. I mean what are——

Ms. BARRA. He is independent, and he will determine those who qualify that meet his protocol and the appropriate amounts.

Mr. OLSON. Will your Board have oversight—have to approve his recommendations or——

Ms. BARRA. No.

Mr. OLSON [continuing]. Just—no, so he is——

Ms. BARRA. He is——

Mr. OLSON [continuing]. An independent operator.

Ms. BARRA. He is independent.

Mr. OLSON. Have families that have previously reached settlements with GM, will they be eligible for this trust fund?

Ms. BARRA. They are eligible to apply.

Mr. OLSON. How about the families whose claims were before GM's bankruptcy, they——

Ms. BARRA. Eligible to apply.

Mr. OLSON. They are eligible as well. How much do you expect the fund to be? Any ballpark?

Ms. BARRA. Without knowing the protocol, I can't speculate on that. By the time Mr. Feinberg shares with us his protocol, then we will have to take an appropriate estimate, but we really won't know until the program has been fully administered, and we have

indicated that we will share the number of incidents and also the total.

Mr. OLSON. Is there a chance the fund will be capped, a limit?

Ms. BARRA. No.

Mr. OLSON. No chance. OK, I yield back. Thank you, sir.

Mr. BURGESS. Will the gentleman yield?

Mr. OLSON. I will.

Mr. BURGESS. Let me just ask you, Ms. Barra, along the lines of do people know how to get in touch with you if they are having trouble getting their car fixed?

Ms. BARRA. Again, in the letters that we sent, and we send to the the record, we go to Polk and get registration data, and that is the best information we have. That is why one of the things that would be very helpful is to have a national VIN database. That would be incredibly helpful to make sure we are reaching them directly. But in the communications that we have had, there is information on how to contact us as well as their dealer.

Mr. BURGESS. So the message should be, a person should contact their dealer?

Ms. BARRA. Well, they can contact our customer engagement center. There is also a 1-800 number at the back of their owner's manual, but then in addition, we know many people will contact their dealer.

Mr. BURGESS. Before this testimony concludes today, could you provide us with that 800 number?

Ms. BARRA. Sure.

Mr. BURGESS. A lot of people are watching this hearing, and I am getting a lot of activity on Twitter, people wanting to know how to get their cars fixed.

Ms. BARRA. Sure.

Mr. BURGESS. So you would help us if you did that.

Mr. MURPHY. OK.

Mr. BURGESS. Thank you.

Mr. MURPHY. Thank you.

I now recognize Ms. Castor for 5 minutes.

Ms. CASTOR. Thank you, Mr. Chairman.

The Valukas report refers to the Board's commitment to improving the quality of GM's vehicles through a bonus plan for corporate officers and employees at the executive, director and supervisor levels, and part of whether the calculation for whether a bonus would be payable was improvement in the quality of GM's vehicles.

Mr. Valukas, do you know what improvement in quality means, or how it is quantified for the purposes of the bonus calculation?

Mr. VALUKAS. I can't give you the calculation. I can tell you that within the quality calculation, it is supposed to be safety, that the individuals which we interviewed identify improvement in quality as relating to the safety issues, so that it would include——

Ms. CASTOR. So safety is supposed to be a quality——

Mr. VALUKAS. Absolutely.

Ms. CASTOR [continuing]. Component, but how is that quantified?

Mr. VALUKAS. I don't have an answer for you on that.

Ms. CASTOR. OK. Ms. Barra, did you receive bonuses through this bonus program during the last decade while the ignition switch issues were ongoing with GM?

Ms. BARRA. There were many years where there was no bonus paid, but there are some years where there was. Not all of those years there was quality, but I can tell you that the quality components, one aspect of it is, is external surveys in which safety is an element of that.

Ms. CASTOR. How many years did you receive those bonuses?

Ms. BARRA. I would have to go back and check.

Ms. CASTOR. OK, so you will provide those to the committee?

Ms. BARRA. Sure.

Ms. CASTOR. Thank you. And, Ms. Barra, will GM's bonus program be revised to include an explicit safety component?

Ms. BARRA. It already has quality that has safety as a piece of it. I will commit though, I will go back and review to make sure it is explicit.

Ms. CASTOR. Because Mr. Valukas just said he reviewed it and he is not certain how expansive that is, and what really goes into considerations of safety.

Ms. BARRA. I will make sure it is explicit. It is a good suggestion.

Ms. CASTOR. OK. Ms. Barra, will GM's compensation structure for all employees, including those below the leadership levels, now include a safety component?

Ms. BARRA. Again, when you speak of all employees, 220,000 employees, or over 200,000 around the world, and we comply with the different laws in those compensation programs, but we have sent a strong signal that quality is important, and that represents 25 percent across all levels.

Ms. CASTOR. I would recommend that, as part of your overhaul for all employees to encourage considerations of safety, that it is made much more explicit to all of those employees. In the past, GM has put into place incentives for high-level employees to make improvements. If GM is serious about its new focus on safety, there should be stronger incentives in place for executives and all of the other GM employees, at the very least, to identify safety problems and improve the safety of all GM's vehicles.

And now I would like to ask about the adequacy of the recall. GM has assured the public that the replacement part for the recalled vehicles will fix the defect; low torque that causes the ignition switch to turn too easily from the run position to the off or accessory position. Ms. Barra, I hope you can assure me that this is the case?

Ms. BARRA. It has been validated extensively, and then NHTSA has as well reviewed it.

Ms. CASTOR. But here is my concern. There seemed to be two problems with these vehicles' ignition switches. Issue number one is that the force required to turn the switch is too low. And issue number two is that a driver's knee can hit the key or key fob and inadvertently turn the switch to the off position because of it is placed too low. The fix to the recall will be to install a new ignition switch with higher torque, requiring more force to turn off the switch. Is that correct?

Ms. BARRA. Right, but if you look at the switch, the cylinder and the key, and then you look at how that works as a system, it has been validated to not only talk about the issue that you are talking

about, about turning, but also the potential knee interference. Both have been validated.

Ms. CASTOR. What will the torque specification that the new switches will make? What is the new torque specification?

Ms. BARRA. Well, the specification is 20 plus-or-minus 5, but the more important thing to look at is the overall performance of the system, and that is what we have done.

Ms. CASTOR. Is that 20 newton centimeters?

Ms. BARRA. It is 20 newton centimeters, yes.

Ms. CASTOR. And do you know how GM arrived at that specification?

Ms. BARRA. Well, that was a specification, but we have gone back and tested extensively with varying levels of keys on rings, and with varying heights of people—size of people. It has been an exhaustive testing——

Ms. CASTOR. Well, here is our——

Ms. BARRA [continuing]. That has been done.

Ms. CASTOR [continuing]. Concern, because when the committee interviewed several GM engineers, Mr. DeGiorgio, Mr. Altman and Mr. Stouffer, they all told us they had no idea of the basis for that specification. And GM has received multiple reports indicating that the placement of the ignition switch in these vehicles could cause a driver's knee to hit the key or the key fob and turn off the switch, isn't that right?

Ms. BARRA. Neither of those individuals have been a part of the company as we have done, or been involved in, all of the extensive testing and validation that we have done specifically with the new product integrity organization, so they are really not in a position to comment.

Ms. CASTOR. But certainly, that would raise a concern if your former engineers continue to have concerns over the fix.

Ms. BARRA. Well, I don't find Mr. DeGiorgio credible, and I personally reviewed the testing that has been done by very experienced, seasoned engineers, and I am confident that the right validation has been done of the system in the vehicle.

Ms. CASTOR. I yield back.

Mr. MURPHY. Thank you.

Now recognize Mr. Griffith for 5 minutes.

Mr. GRIFFITH. Thank you, Mr. Chairman.

Ms. Barra, we have talked a little bit about the compensation trust fund, and you have indicated that Mr. Feinberg is going to set parameters, but you don't have those yet. He is going to determine who is eligible, and he is going to make the determination as to how much they are eligible for. Is that correct?

Ms. BARRA. That is correct.

Mr. GRIFFITH. And do you know if he is going to determine—because most people have focused just on the airbag deployment, and your list of 13 that you know of at this point only includes airbag deployment issues. Do you know if he is looking at other parameters?

Ms. BARRA. We have told him that we want to make sure anybody who suffered harm, either lost a loved one or suffered serious physical injury because of the defect with the ignition switch, that they should be a part of the program.

Mr. GRIFFITH. So you acknowledge what Mr. Gingrey was getting to earlier, and that is, if you are traveling down the highway at a fairly good rate of speed, whether it be 48 miles or more, or 35 miles an hour, and all of a sudden your car goes into a stall or the ignition turns off, you have to put that into neutral and restart it, that is going to have been responsible for a number of the accidents that took place, whether or not the airbags were deployed or, in fact, even if the airbag not being deployed didn't cause the death or injury, there might still have been an injury as a result of that. You acknowledge that?

Ms. BARRA. If the ignition switch was part of the issue, we want them in the program. And there are other incidences.

Mr. GRIFFITH. So then I have to question why you have one of the two folks in the accident that was referred to in Trooper Young's accident report, one of those two individuals is on the list of 13, but Natasha Weigel is not, and that raises the question, because she was in the backseat. So the airbag didn't affect her, but clearly that accident may very well have been the result of the fact that you had a young driver, as pointed out by Mr. Gingrey, who suddenly finds themselves in an emergency situation on the highway, going 48 miles an hour, and they don't have an engine that works anymore. And you would agree that if the engine is not working, if the power is off, you don't have power steering anymore either, do you?

Ms. BARRA. We were clear about the 13, but again, we want to get everybody who was affected, and that is what we are focused on. And so, again——

Mr. GRIFFITH. And you want to make sure that everybody is fully and fairly compensated, is that correct?

Ms. BARRA. That is correct.

Mr. GRIFFITH. Then I have to ask you this question, Ms. Barra. Why are your lawyers still trying to seek protection in the bankruptcy court?

Ms. BARRA. We are not going to revisit those decisions. I think what we are doing is going above and beyond with this compensation program to get to the people. This was a unique series of mistakes that was made over a long period of time, and we feel it is the right thing to do to——

Mr. GRIFFITH. So you feel it is the right thing for GM to continue to ask your bankruptcy lawyers to defend them and get the shield from the bankruptcy court in the bank—in that court, and not have to deal with these cases that come up, and to only let the only solution be Mr. Feinberg, if there has not already been a settlement, isn't that correct?

Ms. BARRA. Mr. Feinberg——

Mr. GRIFFITH. Yes or no.

Ms. BARRA. Mr. Feinberg's program is a voluntary program, otherwise people have the same rights they have today.

Mr. GRIFFITH. They have the same rights, but you are trying to block those rights in the bankruptcy court, yes or no?

Ms. BARRA. Our intent is to do a compensation program, is to do the right thing for these individuals.

Mr. GRIFFITH. But you are not instructing your lawyers to back off of their claims in the bankruptcy court, that you want to be

shielded in the bankruptcy court from any claims that these outside parties might bring. So if Mr. Feinberg's parameters don't fit, but a competent court might find that they should fit, not going to matter to you because you have the bankruptcy protection. I will move on to another question.

I am concerned a little bit about the fact that your legal department didn't pick this up, and I want to know were any of the lawyers fired for not being diligent?

Ms. BARRA. I have stated that there were four different functions in which individuals were fired at all levels of the company, legal being one of them, engineering, quality and public policy.

Mr. GRIFFITH. OK, because it did concern me that Trooper Young's report was sitting in the GM files in the legal department for a period of about 6 years, and only one person opened the file during that time period, and that was a legal assistant.

Let me ask you this. Can the lawyers, and I think they ought to be, but can the lawyers start a safety investigation?

Ms. BARRA. Anyone in the company can raise a safety issue. We want them to——

Mr. GRIFFITH. Yes.

Ms. BARRA [continuing]. Thank you, they are more than able to do that.

Mr. GRIFFITH. And in this case, the lawyers didn't do that, is that why one of them might have been fired, or some of them may have been terminated?

Ms. BARRA. You know, clearly there were people that didn't share information to pull all the pieces together in this, and it is unacceptable, and those individuals that were in the best position to share are no longer with the company. And we are strongly encouraging everybody in the company to raise issues. I will tell you specifically——

Mr. GRIFFITH. All right, I am about to run out of time, so I appreciate that, but let me just state this in closing. If GM truly wants to compensate everybody who has been harmed, fully and fairly, they ought to ask their lawyers to stop asking the bankruptcy court for bankruptcy court protection, and let these matters work their way out.

Thank you. Yield back.

Mr. MURPHY. Gentleman yields back.

Now recognize Ms. Schakowsky for 5 minutes.

Ms. SCHAKOWSKY. Thank you, Mr. Chairman.

The Valukas report identifies Mr. Ray DeGiorgio, who you said, Ms. Barra, has no credibility, that the GM design release engineer, that was his title, as being almost solely responsible for key decisions to approve the deadly ignition switch in 2002, and to modify it in 2006.

Mr. Valukas, your report states that one of the key failures was "the decision by a single engineer who did not advise others of his decision to accept an ignition switch with full knowledge that it fell well below GM's own specifications." Is that correct?

Mr. VALUKAS. Right.

Ms. SCHAKOWSKY. The implication here is that Mr. DeGiorgio acted alone, but the report describes problems associated with the ignition switch, aside from low torque, many of which were known

as early as 2001, according to the report, the "entire electrical concept needed to be redesigned". The switch had significant problems that were known to GM. In his interview with the committee, and at this point I just want to congratulate the staff of our committee for the amazing work that they did independently to investigate all these issues, that in his interview with the committee, Mr. DeGiorgio told committee staff that he met with his superiors around February 2002 to inform them that the ignition switch would be delayed. Attendees at the meeting included the vehicle's chief engineer, the program engineering manager and electrical directors. It was clear this switch was getting a lot of attention.

So, Ms. Barra, is it your belief that one engineer, Mr. DeGiorgio, unilaterally approved a part that had been plagued by problems from the start?

Ms. BARRA. The basic issue is that the switch that he approved to go into production did not meet the performance requirements. That was the first mistake.

Ms. SCHAKOWSKY. And it was DeGiorgio's alone?

Ms. BARRA. He was the one responsible for it.

Ms. SCHAKOWSKY. Knowledge of the problem is important. Torque problems plagued the switch from the start, and the Valukas report says in 2006, Mr. DeGiorgio, again, unilaterally approved changes to the switch to increase the torque. Mr. Valukas' report notes "there is no evidence that DeGiorgio told others at GM, including engineers on the Cobalt program, about the spring change to the ignition switch that he authorized in April of 2006."

So, Mr. Valukas, the report does note that other GM employees had received documents describing the ignition switch change as early as June 2006, and that these documents clearly indicated that the switches used in pre-2007 models were not within specifications. Is that correct?

Mr. VALUKAS. The answer to that question is there were e-mails which were forwarded to other individuals which, contained within those e-mails, after the change was made, information about the fact that the torque had changed. We interviewed those individuals. Those individuals were by and large in the warrantee area. They were looking at something that—it meant nothing to them as they—the two that we were able to locate and find, it was not—they were totally unaware of the issues concerning the switch not deploying any aspect of it. So the one individual who did know all of the facts and had that information was Mr. DeGiorgio. The other engineers who were on this e-mail chain, it meant nothing to them.

Ms. SCHAKOWSKY. OK. But there is an e-mail——

Mr. VALUKAS. Yes.

Ms. SCHAKOWSKY [continuing]. I am holding it here, cited in your report, discusses implementation of the new——

Mr. VALUKAS. At page 102 and——

Ms. SCHAKOWSKY. I believe that is right. And the quote is "increased torque forces to be within specifications", and it was sent to five GM employees on June 2, 2006. But we have also obtained another document that was not included in your report, and this document indicates that another GM contract engineer may have approved the 2006 change. It is a production part approval process report obtained by Delphi through GM's global quality tracking

system. It is dated June 1, 2006, and it lists a GM quality—supplier quality engineer. The document has a section labeled "supplier quality engineer notes", and these notes read—this is a quote, "new PCB and spring plunger implementation for performance improvement. Part approved per supplier. Submitted, warrant and GM 3—3660."

So, Mr. Valukas, have you seen that report, the global quality tracking system?

Mr. VALUKAS. Yes.

Ms. SCHAKOWSKY. So did you interview the listed supply quality engineer, or look into what role he might have played in approving the switch change in 2006?

Mr. VALUKAS. We did the following. We looked at that form change, and what happened with that form change is the following. So the supply quality engineer's function is to determine whether the boxes are filled out and materials are properly identified here, and then he submits that and puts that into the system. He does not have, as we understand it, anything to do with making decisions on the change. He's actually functioning as somebody putting something into the system. Did we do an interview? I don't think we interviewed that particular individual. We know what his function was and what the role was.

Ms. SCHAKOWSKY. Well, I don't want to minimize Mr. DeGiorgio's role or excuse his actions in any way, but I do think these documents going to the fact that the problem at GM is deeper than just one rogue engineer.

And I yield back.

Mr. MURPHY. Thank you. Yields back.

And now recognize Mr. Johnson from Ohio for 5 minutes.

Mr. JOHNSON. Thank you, Mr. Chairman.

Mr. Valukas, your report discusses an early May 2005 e-mail related to a customer concern about the ignition switch. That is at tab 12 of the folder that you have there. Your report focused on Mr. DeGiorgio's awareness of this exchange. There were others on this exchange, including Doug Parks. What was Doug Parks' position at the time?

Mr. VALUKAS. I honestly don't recall his title at that time.

Mr. JOHNSON. Wasn't he the vehicle chief engineer?

Mr. VALUKAS. He may well have been. As I say, I don't recall.

Mr. JOHNSON. Why was it more significant that Mr.—let us assume that he was, because that is what we think he was, why was it more significant that Mr. DeGiorgio was aware of this exchange rather than the vehicle chief engineer?

Mr. VALUKAS. I don't know that it was more significant. It was significant because Mr. DeGiorgio ultimately made the decision to change the part. And in our interviews with him, he said that he was not aware of the fact that this was an issue, that he was not aware of the publicity and was not aware of the e-mail traffic concerning this, while we had information that that was not, in fact, the case.

Mr. JOHNSON. What is the chief engineer's responsibility?

Mr. VALUKAS. Within the company?

Mr. JOHNSON. Yes.

Mr. VALUKAS. And I do not have an answer for that.

Mr. JOHNSON. OK.

Mr. VALUKAS. But I can find out and I would be happy to submit that information.

Mr. JOHNSON. Ms. Barra, do you know what the chief engineer's responsibility is?

Ms. BARRA. The chief engineer is responsible for the overall integration of the vehicle, and making the balance and tradeoff decisions for that vehicle.

Ms. JOHNSON. OK. What——

Ms. BARRA. And if issues are raised to him, then he or she will deal with that.

Mr. JOHNSON. OK. What knowledge should someone in the chief engineer position have about the vehicle, compared to someone such as Mr. DeGiorgio? I mean would it be reasonable that the vehicle chief engineer would have known about this situation?

Ms. BARRA. Again, there are 30,000 parts on a car. The chief engineer has to count on the people doing their job. We have now put—in the mid-2000s there were validation engineers that were added to make sure that the process was done well, and now with the product integrity organization, we will be validating the subsystems. But the chief engineer——

Mr. JOHNSON. Takes information from those that——

Ms. BARRA. Right.

Mr. JOHNSON [continuing]. Come up, OK.

Ms. BARRA. The system works——

Mr. JOHNSON. I have to move on. In a May 4 response to this chain, Mr. Parks requests a plug to insert in the key head, since it appears to be the only, in his opinion, "only real quick solution." But this solution was not implemented for months.

Mr. Valukas, do you know why?

Mr. VALUKAS. Park of the dysfunction of what was happening in the organization. They were treating this as a customer convenience issue, rather than safety issue, so they looked at issues in terms of price, expense, cost——

Mr. JOHNSON. Rather than safety.

Mr. VALUKAS. That was it.

Mr. JOHNSON. OK. A few weeks later on May 17, a new PRTS was initiated. At the time, the program team decided to pursue additional solutions beyond the service fix for the key insert, a short-term production fix for a new key that changed the slot to a hole, and a long-term solution to introduce a more robust ignition switch. Who was responsible for initiating and implementing these changes?

Mr. VALUKAS. These would have been the committees which were involved in the—and I don't have the committee name in front of me, I will look at the report, but the committees that were involved in the review, and ultimately they didn't do what they said they were going to do.

Mr. JOHNSON. Were they reviewed by the vehicle chief engineer?

Mr. VALUKAS. I don't know that.

Mr. JOHNSON. You don't know. Do you know?

Ms. BARRA. As I read the Valukas report, I think that—I think what you are referring to was continuous improvement team——

Mr. JOHNSON. OK.

Ms. BARRA [continuing]. And I believe the chief was not there, it was the program engineering manager.

Mr. JOHNSON. Why did it take until 2009 to implement the new key head, and who was responsible for ensuring that this change was implemented? Do either of you know?

Mr. VALUKAS. I can tell you that the reason it was delayed was because it was treated again as a customer convenience issue. They had an issue with regard to their supplier, and a dispute with regard to his ability to deliver, and it wasn't until 2009 that the dispute was resolved, and they ultimately made that change with regard to the key.

Mr. JOHNSON. OK. Ms. Barra, in my previous life, I worked in a publicly traded company as a part of the executive team. We had a risk and compliance department. We had a risk and compliance director. My understanding of this issue, part of the concern that you have addressed, and that you are continuing to address, is that this information never bubbled up to some of the key decision-makers. The SEC requires, there are laws that require reports of risk and compliance-related issues. Were any of the SEC reports, or did the risk—were the risk and compliance folks notified that millions were being paid out for claims as a result of some of these problems? How does it break down that bad in a company that is publicly traded?

Ms. BARRA. I can't speak to specifically what was in an SEC report, but what I can tell you, it is unacceptable the way things broke down, and that is why we have made dramatic process changes. But as Congresswoman DeGette indicated as well, we have to make substantial changes in the culture, and we are well on our way to doing that. And I believe the men and women of General Motors want to make sure we have the safest and the highest quality vehicles on the road.

Mr. JOHNSON. OK. Thank you, Mr. Chairman. I yield back.

Mr. MURPHY. Gentleman yields back.

Now recognize Mr. Tonko for 5 minutes.

Mr. TONKO. Thank you, Mr. Chair. And welcome to our panel.

As we examine what went wrong on this terrible tragedy, the most important job, I believe, for Congress is to strengthen and improve auto safety laws to ensure that something like this never happens again. We certainly owe it to the families of the victims of this tragedy, many of whom are in our audience today for the hearing.

That being said, one area that I believe we need to address is to improve early warning report data.

Mr. Valukas, can you describe briefly early warning report data?

Mr. VALUKAS. What is the data itself?

Mr. TONKO. Yes.

Mr. VALUKAS. Information that comes to the attention of the company which indicates that there are potential safety problems of which they are required to make alerts.

Mr. TONKO. And I believe the 2000 TREAD Act requires that the information be reported to NHTSA?

Mr. VALUKAS. That is correct.

Mr. TONKO. So, Mr. Valukas, you describe a number of cases where GM investigators analyzed this TREAD data to attempt to

identify or explain airbag non-deployment in Cobalts and Ions. Is that not correct?

Mr. VALUKAS. In the Ions, yes. The answer is I cannot give you a number of where that was done.

Mr. TONKO. And the federal regulators also conducted analyses of the early warning report data, but were not able to separate the wheat from the chaff, so to speak, and identify the defect?

Mr. VALUKAS. The issue of the non-deployment of the airbag was a matter of discussion in 2007 between NHTSA and General Motors. We note—it was NHTSA saying we note that there are these non-deployments. GM's response to that was to begin an investigation under Mr. Sprague to keep a chart of what was taking place. There were no major further discussions about that issue until 2013.

Mr. TONKO. It seems that part of the problem here is that early warning report data provided to NHTSA are reported in 23 broad categories. In the case of this defect, the early warning data provided to NHTSA spans several categories, including engine, airbags, and a category of other. NHTSA is able to request more detailed information from auto manufacturers for individual warrantee claims and field reports, but it is difficult to know what is—what to request, given the minimal level of detail provided in the first place. NHTSA needs more detailed early warning data so that they can spot trends, and request the most useful follow-up information from the auto manufacturers, and more early warning data should be available to the public. We can all appreciate the value of outside experts in spotting issues that otherwise go undetected.

Finally, NHTSA needs appropriate enforcement mechanisms to ensure auto manufacturers comply with the laws, especially when safety is at stake.

On May 16, GM agreed to pay the maximum fine for failure to report a safety-related defect to NHTSA, and that, I believe, is $35 million. Ms. Barra, what was GM's net income in 2013?

Ms. BARRA. Three point—yes, I was going to say, it was just under $4 billion.

Mr. TONKO. Just under $4 billion. So the penalty for failing to report the ignition switch defect is less than 1 percent of GM's earnings for last year.

Ms. BARRA. That is correct math, but I think our intent is that we deal with safety issues. By the time you get to talking about a fine, the customer has already been impacted in an incredibly negative way. We want to make sure we are putting high quality, safe vehicles on the road, and we want to work in cooperation with NHTSA to do that.

Mr. TONKO. Nonetheless, it is not much of a deterrent, Mr. Chair. We need to increase this maximum penalty. Thirty-five million dollars is not an adequate deterrent to a large profitable company like GM. If the penalty for inaction had been higher, GM might not have waited over a decade to report this safety defect to NHTSA. And it is clear to me that NHTSA needs higher penalty authorities. We need to make certain that the penalty for not reporting a safety defect is a sufficient threat to deter auto companies from needlessly delaying safety decisions. Fixes in these areas,

like the TSB's public improving early warning report data, and increasing penalties, should be easy for us to agree upon.

And with the seconds that I have remaining, the GM recall Web site indicates that, even after the new switch is installed, customers should "only utilize the key, key ring and key fob, if equipped, that came with the vehicle.

Ms. Barra, many consumers have key chains with multiple keys. Why, if the new replacement switch is adequate, does GM still recommend that consumers not use their full key rings the way they would normally use them?

Ms. BARRA. Again, the system meets and has been validated, and that has been validated also by NHTSA, but as I have gone through this process over the last 3 months, I have seen incredible things on key chains that, across the industry—I think this is actually an industry issue that we have to look at. I notice key chains everywhere I go now, and I just think it is something that needs to be addressed more broadly across the industry.

Mr. TONKO. Thank you, Mr. Chair. I yield back.

Mr. MURPHY. Thank you.

Now recognize Mr. Long for 5 minutes.

Mr. LONG. Thank you, Mr. Chairman. And thank you all for being here.

Mr. Valukas, do you feel like that you conducted a thorough investigation?

Mr. VALUKAS. Yes.

Mr. LONG. According to what you testified to today, if my math is right, how many people were on that team? How many people investigated along with you?

Mr. VALUKAS. The number of individuals who were employed at one point or another in reviewing documents, doing interviews, several hundred.

Mr. LONG. Several hundred. According to my math, you all looked at 1,220 documents a minute.

Mr. VALUKAS. I am sorry, say that again, Congressman.

Mr. LONG. I said, according to my math, you all looked at 1,220 documents a minute, if you said you had access to 41 million documents over a 70-day period—I don't know how in the world you could do a thorough investigation in that time frame.

Mr. VALUKAS. Congressman, we used computers and programs to analyze the documents for purposes of kicking out those documents which are reflective of the issues that are here. We used as part of that database, requests were being made by Congress, requests were being of us by the United States Attorney's Office, by NHTSA, and we isolated those documents and then gave them, through three levels of review, for purposes of determining whether they were relevant to any aspect here. I feel very comfortable, I can't tell——

Mr. LONG. But back to my first question, do you think it was a thorough investigation? I am not in your business, and you are, so I am just trying to learn here.

Mr. VALUKAS. Well, I am sorry.

Mr. LONG. Yes, so the report that you released, were you given a deadline by General Motors on when that needed to be out?

Mr. VALUKAS. General Motors, the Board of Directors, when they employed me to do this investigation, asked me whether I could get it done within a certain time frame, and I told them we could. That was the deadline; was my commitment that we could do it in that time period. Part of that was associated with the fact that they wanted to know because there were deaths involved here, what caused it, what were the problems. Part of it was because we wanted to get the report out or to be able to respond to Congress. So we had that deadline.

Mr. LONG. And you got your report completed, or once you completed the report, to whom at General Motors did you present the results?

Mr. VALUKAS. The Board of Directors.

Mr. LONG. OK. And what was their reaction?

Mr. VALUKAS. The reaction. I can't tell you what their reaction was. I know the reaction was that, as what you have seen with Ms. Barra here, is to follow up on it.

Mr. LONG. OK, so you didn't receive any resistance to your findings or your recommendations from the Board?

Mr. VALUKAS. None. None.

Mr. LONG. And were you asked to make any changes to your report?

Mr. VALUKAS. No, I was not, and what I did tell them, and what I have mentioned to to staff here, that if we found something different as we pursued, continued to gather documents because there were requests here and elsewhere, we would review the report, and if there was anything in the report that we found to be in error, or needed to be corrected, or changed or anything, we would report that back to the Board, and I presume they would report it back to you.

Mr. LONG. So other than that, your report, does that end your investigation. And I apologize, I have been here for about 90 percent of the hearing, but I did have to step out for a few minutes a few minutes ago, so——

Mr. VALUKAS. No, we believe we have completed the inquiry, but as I say, we would update it if we found something which changed in any significant way. I believe back last week we found something in the report that we corrected, and we notified your staff of that immediately.

Mr. LONG. OK, thank you. And I yield back.

Mr. MURPHY. Mrs. Ellmers, you are now recognized for 5 minutes.

Mrs. ELLMERS. Thank you, Mr. Chairman. And thank you to Ms. Barra and Mr. Valukas for being here today for this very, very serious subcommittee hearing. And I too, as some of my colleagues have said, extend my condolences to the families. It must be very difficult for you to be here and listening to this dissection of information. As important as it is, these are your loved ones.

Mr. Valukas, this is more of a process question that I have for you, sir. Going back, again, over the investigation and what you have reported, back in March 2007, it says staff from NHTSA approached GM personnel in between meetings in Washington and mentioned a concern about non-deployments of the Cobalts and

Ions. What is your understanding of the information that was shared by NHTSA?

Mr. VALUKAS. My understanding, it comes from the interviews. I did not talk to anybody from NHTSA. We did not think that we were going to be interviewing federal officials. We interviewed the people at GM, and looked at the documents and materials which they produced as a result of that meeting——

Mrs. ELLMERS. Yes.

Mr. VALUKAS [continuing]. And it was that, in the course of that meeting, NHTSA noted that there had been these non-deployment cases and asked General Motors about them. The response to that was the assignment of Mr.—I believe it was Mr. Sprague at that point, to look into it and how to document what was taking place, to keep a chart essentially as to are these happening, how many are there, et cetera.

Mrs. ELLMERS. OK, and the gentleman that you are referring to, what division was he in—I am assuming General Motors or NHTSA? What division was he part of?

Mr. VALUKAS. He was an investigator, I believe, with FPA. Yes, FPA investigator, which means he would have been detailed into the legal department.

Mrs. ELLMERS. OK, so according to our information, when the engineers returned to Michigan, apparently after being here in DC, the product investigations team, the group that determines the root cause of the problem, reviewed the claims relating to the Cobalt non-deployment, but ultimately decided not to pursue it. Why did the product investigations not pursue this matter at the time?

Mr. VALUKAS. That is a very good question, and the answer is, this was one of those things that was passed off to another agent. Mr. Sprague was keeping track of it. The other investigators weren't following up with regard to it. They were gathering information, if you will, but that is where they went with it.

Mrs. ELLMERS. OK. So when you say that it was kind of handed over somewhere else, you are referring to the product—the field performance assessment——

Mr. VALUKAS. Yes.

Mrs. ELLMERS [continuing]. Division?

Mr. VALUKAS. Yes.

Mrs. ELLMERS. OK, because according, again, to our information, it says after the product investigators declined to investigate, the responsibility for tracking these claims, or tracking these claims—there again, I think that is something significant as well, was assigned to the field performance assessment division.

Mr. VALUKAS. Right.

Mrs. ELLMERS. Now, do you consider this to be unusual, like an unusual pattern to have followed? Would this be typical in a situation where there has been an obvious issue that has come to light, and it just kind of be passed off to another—and I guess I would like to know too, one, it was given to another division, but what exactly is the field performance assessment division responsible for, and was this just a way to put aside the problem because they weren't focusing on it?

Mr. VALUKAS. Well, I don't know if it is typical. I do know it happened in this case, and it was one of the things we called out on

the report of passing off responsibility from one committee to another committee. FPA would be focused on potential claims in the legal department——

Mrs. ELLMERS. Yes.

Mr. VALUKAS [continuing]. And whether or not to have litigation, or things like that, which indicate the existence of these problems, but they are not the products investigators, they are a different group. But then here is what you have, is you had it passed off to Mr. Sprague——

Mrs. ELLMERS. Yes.

Mr. VALUKAS [continuing]. Who then gathered information about it for years, and nothing else was taking place other than gathering that information, until 2009. So everything was in hiatus.

Mrs. ELLMERS. Do you know who it was that actually made or authorized that change, who gave the assignment to Mr. Sprague?

Mr. VALUKAS. No, I don't. I mean I don't know if we have a name. I can get a name for you if——

Mrs. ELLMERS. OK. I——

Mr. VALUKAS [continuing]. You want a name.

Mrs. ELLMERS [continuing]. If you could, that would be incredibly——

Mr. VALUKAS. Absolutely.

Mrs. ELLMERS [continuing]. Important information for us as a committee to have. Thank you.

Mr. VALUKAS. I know the legal department was at the meeting with NHTSA, so it was as if the legal department said, well, we will take a look at this and then they went forward. But I will get you a name.

Mrs. ELLMERS. Did the FPA ever attempt to evaluate the matter back in the product investigation? Was there ever an attempt, according to your investigation, did anybody address these issues?

Mr. VALUKAS. Yes, in—well, in 2009, when they had the second continental——

Mrs. ELLMERS. Yes.

Mr. VALUKAS [continuing]. Report, then it became elevated, if you will. They looked at it, they realized that it was something that could be associated with the switch as being the cause of the nondeployment——

Mrs. ELLMERS. Yes.

Mr. VALUKAS [continuing]. And at that point, other things started to take place, including Mr. Sprague going to visit Mr. DeGiorgio and asking him whether there had been a change in the switch, and him saying no.

Mrs. ELLMERS. OK, so I guess my last and final question here was basically, was there a reluctance there, but I believe you just indicated that there was—and a reluctance to actually acknowledge and address the issue.

Mr. VALUKAS. I am sorry, I——

Mrs. ELLMERS. I am sorry, that would probably be hypothesizing on your—thank you, Mr. Chairman, for your time, and thank you.

Mr. MURPHY. Gentlelady's time has expired.

Now it is the committee's practice that if another member of the full committee can ask questions after other members have asked theirs. And so we now recognize Mr. Terry, who is the chairman

of the Subcommittee of Commerce, Manufacturing, and Trade, for 5 minutes.

Mr. TERRY. Thank you, Mr. Chairman. And I too want to recognize the parents and family members in the back. Those photographs up there really keep reminding us why we are here and investigating today.

Mr. Valukas, I want to ask you because I want to go back to—I am still stuck on how these sub-spec parts were even allowed at the very beginning of the process. So in that regard, the production part approval process that they go through when they do the testing, would that 2002 PPAP package be a key document in this investigation?

Mr. VALUKAS. It certainly would be something I would want to see. I think we started out, I don't think we ever found it, and we have asked Delphi for it and we don't have it.

Mr. TERRY. And Delphi wouldn't produce it?

Mr. VALUKAS. They informed us they don't have it.

Mr. TERRY. They don't have it. Do you believe that?

Mr. VALUKAS. I can only report what they told us. We made requests from them from the very beginning for access to any and all documents relating to this matter. What they produced to us were a limited number of documents which were documents that had actually been exchanged with us, at least initially. I think we may have received a few additional documents over the time, but that is what we got.

Mr. TERRY. So no one has been able to locate the PPAP on the ignition parts?

Mr. VALUKAS. That is my understanding.

Mr. TERRY. Ms. Barra, do you know whether or not the PPAP for this ignition parts from 2002 exists?

Ms. BARRA. I don't. I believe Mr. Valukas and his team would have found it if it does exist, but what I can tell you is the part should have never been put in production.

Mr. TERRY. Agree, and I am proud you said that, but it would have been great to discover that in 2002 during the PPAP process. And the fact that it wasn't is disturbing in and of itself, and that is why I think those documents are extremely important, as you do, Mr. Valukas.

Should this committee consider a subpoena of those records since they were not produced? Even though——

Mr. VALUKAS. You are putting me where I cannot go. The committee is going to conduct its investigation. Let me say this, and I think this is important. It is clear, at least from our fact-finding, that Mr. DeGiorgio approved this part——

Mr. TERRY. Yes.

Mr. VALUKAS [continuing]. And he approved this part knowing it was well below specifications, and we did not find anybody else who was involved in it, though Delphi certainly knew that the part that was being approved was below specification.

Mr. TERRY. And in that respect, you have this binder by you, and if you would turn to tab 4, and it is a memo from Raymond DeGiorgio regarding the talc issue. Now, this is an e-mail from around April 2002, it is around the time the original switch was actually being approved, is that correct?

Mr. VALUKAS. Yes.

Mr. TERRY. And the subject here is GMX 357 talc issue for the Saturn Ion, correct?

Mr. VALUKAS. Correct.

Mr. TERRY. And that talc—what rule does the talc testing have on the approval of the switch, do you know?

Mr. VALUKAS. It is part of the process. It is how does it feel—it has been explained to me, how does it feel when you make the turn, they wanted to make it feel like it was a European sports car or something like that.

Mr. TERRY. Well, does this e-mail to Raymond DeGiorgio the answer from Mr. Reineke, does that raise any concerns to you as the investigator, particularly the sentence that Mr. Reineke did not find spring back from crank run to accessory as Terry Meehan and others had observed.

Mr. VALUKAS. No.

Mr. TERRY. Were you aware of these discussions around the time of the switch approval about the feel of that ignition switch?

Mr. VALUKAS. Yes.

Mr. TERRY. OK. In the last 30 seconds, you mentioned that there was an adversarial feeling between NHTSA and GM. Have you concluded who is responsible for the adversarial relationship?

Mr. VALUKAS. No, I have not, but I just noted from the documents, and this is not from testimony; more from the documents, just the tone of the documents, and that is maybe an incorrect way to assume something, but that from the tone of the documents, it suggested that there was some nature of adversarial activity here.

Mr. TERRY. One quick last question. There were many times, looking through the documents, that under the TREAD Act, GM should have provided notice to NHTSA. Does this adversarial relationship between the two impact their decision not to provide that notice?

Mr. VALUKAS. No. When I say no, let me explain what we did, and someone else will make that judgment in a different context. We went back through all of the disclosures, the TREAD Act disclosures, to look to see whether something was or was not disclosed, and, at least as best we could tell, marking those disclosures, what the information which was then in possession by virtue of the interviews or documents we had, it appeared to us that the TREAD disclosures were compliant, but I will not be the ultimate judge of that.

Mr. TERRY. Thank you, Mr. Chairman. Thank you for the additional time.

Mr. MURPHY. Thank you. Gentleman yields back.

Now Ms. DeGette and I will each have the final 5 minutes. All right, Ms. DeGette, recognized for 5 minutes.

Ms. DEGETTE. Thank you, Mr. Chairman.

Mr. Valukas, I wanted to follow up on a couple of questions Mr. Johnson was asking you. Your report says on page two: "GM engineers concluded that moving stalls were not safety issues because drivers could still maneuver their cars. As a result, GM personnel viewed the switch problem as a customer convenience issue, something annoying but not particularly problematic, as opposed to the safety defect it was." Is that right?

Mr. VALUKAS. Correct.

Ms. DEGETTE. And you told Mr. Johnson—so, therefore, because they called it a customer convenience issue, they looked at issues of pricing and issues like that, not issues of safety. Is that right?

Mr. VALUKAS. That is correct.

Ms. DEGETTE. And this was despite the fact that, really pretty early on, GM started getting a lot of complaints about the ignition shifting into neutral, and the car losing all power. Is that right?

Mr. VALUKAS. That is correct.

Ms. DEGETTE. In fact, in a review of the Cobalt in the New York Times, the freelance writer said that his test Cobalt driven by his wife stalled after her knee bumped the steering column, right?

Mr. VALUKAS. There were reports in New York Times and other newspapers——

Ms. DEGETTE. And Cleveland Plain Dealer—and others, and so I find—this kind of boggles my mind. A car could be going down the highway at a high rate of speed, 65 miles an hour, and it gets bumped, it goes into neutral, and then everything stops, the power steering, the brakes, the airbags. That is what happened to Brooke Melton, where she is driving down the highway in Hiram, Georgia, on her 29th birthday, the ignition stops, the car loses power, she goes into the other lane and she is killed. Do you know about that case?

Mr. VALUKAS. I know about that case.

Ms. DEGETTE. Yes.

Mr. VALUKAS. I certainly do.

Ms. DEGETTE. And so yet the GM engineer said that this was a convenience issue, right?

Mr. VALUKAS. They not only said it internally, they said it publically when they were interviewed by the Press. They said this is our position, that a stall does not constitute a safety issue, and that——

Ms. DEGETTE. But that——

Mr. VALUKAS [continuing]. Was one of——

Ms. DEGETTE. That is just insane, isn't it?

Mr. VALUKAS. I don't—won't use the word insane, but——

Ms. DEGETTE. OK.

Mr. VALUKAS [continuing]. I am troubled by that.

Ms. DEGETTE. Yes, OK, good. Now, at the same time, GM was talking to NHTSA about whether stalling was a safety risk. Are you aware of that?

Mr. VALUKAS. I am aware there were conversations for all this period of time.

Ms. DEGETTE. Now, Ms. Barra, were you aware that at the same time NHTSA was talking to GM in June 2004, that General Motors recalled 15,000 Oldsmobile Bravadas and Envoys because of stalling risks?

Ms. BARRA. I was not involved in that area at that time.

Ms. DEGETTE. So you are not aware of that?

Ms. BARRA. No.

Ms. DEGETTE. Well, Gay Kent signed that notice, and was Gay Kent reporting to you at that time?

Ms. BARRA. No.

Ms. DEGETTE. OK. Did Gay Kent ever express any concern to you about the stalling and safety risks from the Ions and Cobalts?

Ms. BARRA. No.

Ms. DEGETTE. OK, so basically, what you are saying in your report, Mr. Valukas, is you have these cars that stall out at any speed really, and all of the power goes out, but yet the GM personnel maintained this was a customer convenience issue?

Mr. VALUKAS. That is where they were, absolutely, from 2005 through 2009 at least.

Ms. DEGETTE. OK. Now, have you ever talked to a fellow named Clarence Ditlow, who is with the Center for Auto Safety?

Mr. VALUKAS. I have received correspondence from him.

Ms. DEGETTE. Did you receive this letter dated June 17, 2014, from him?

Mr. VALUKAS. In the packet?

Ms. DEGETTE. I am sorry?

Mr. VALUKAS. Is it in the material that was just given to me?

Ms. DEGETTE. I don't know, but we can hand you a copy. And Mr. Ditlow's conclusion is that the Valukas report is clearly flawed and accepting GM's explanation that its engineers and senior managers did not know stalling was safety related. Are you aware of this claim that Mr. Ditlow made?

Mr. VALUKAS. I am aware of his claim. Actually I know I read this letter and I sent him back a nice note saying thank you for the information.

Ms. DEGETTE. And what is your view of that?

Mr. VALUKAS. My view is that he didn't read the report and understand what my responsibility was here. You have asked for my view, let me give my view. What we were charged to do, and I think this is very important to understand, we were charged by the Board of Directors, find the facts concerning how and why this occurred. We were charged with laying those facts before the Board, and we were charged with making recommendations. And the Board was charged with the responsibility, I presume, of making decisions whether or not the employees within the organization, to the top level, lived up to their responsibilities. That was where the Board's responsibility was. So the suggestions in here that, we didn't cover people or we were——

Ms. DEGETTE. So——

Mr. VALUKAS [continuing]. That we exonerated certain people is not—is just simply not correct.

Ms. DEGETTE. Mr. Valukas, I really appreciate that answer because you clearly delineated what you were hired to do, and you believe you were hired to do that, correct?

Mr. VALUKAS. That is correct.

Ms. DEGETTE. Now, so there may be other information that this committee needs to gather beyond your report, right——

Mr. VALUKAS. That is——

Ms. DEGETTE [continuing]. And conclusions?

Mr. VALUKAS [continuing]. Absolutely possible, and as I said before, if we found new information as we went along which reflected that, we would share it.

Ms. DEGETTE. You will share it with this committee, correct?

Mr. VALUKAS. Share it with the——

Ms. DEGETTE. Thank you. Mr. Chairman, I would ask unanimous consent to place this June 17 letter into the record, and also a report by the American Association for Justice, entitled Driven to Safety, from June 2014, talking about some of the lawsuits that we have involved in this issue.

Mr. MURPHY. Without objection, so ordered.

[The information appears at the conclusion of the hearing.]

Ms. DEGETTE. Thank you very much. And thank you again for coming, both of you, today.

Mr. MURPHY. Thank you. Dr. Burgess wanted to make that follow-up question about the phone number.

Mr. BURGESS. The unanimous consent request, since I brought it up, to put into the record 1–800–222–1020, is the customer service number that should be available to customers of General Motors, and also just the observation we are talking about the non-deployment of an airbag, which is a supplemental restraint system, the primary restraint system is the seatbelt, and I do encourage people, you have to wear your seatbelts when you drive on the highways. And I will yield back.

Mr. MURPHY. Thank you.

I now recognize myself for a final 5 minutes here.

I just want to be clear, Mr. Valukas, so when you said when you get additional data, and it was very clear in your mandate from Ms. Barra that she wanted this to be thorough, basically no stones unturned, that if you received that other information from plaintiffs' attorney, I hope you will share that with us. You said that they have not responded to you as of yet, but if there was information that they have with regard to delays from General Motors' attorneys in getting them information, I hope you will review that and let us know.

Mr. VALUKAS. And I would like to be clear, simply because of my responsibilities here, I will gather that information. Whatever we do, we would have to share with the Board of Directors. They will make the decision as to disclosure, but in this instance, they have made those decisions up to this point, so——

Mr. MURPHY. Thank you.

Ms. Barra, a couple of points. I want to make sure we are—now with the benefit of time, we recognize that the Cobalt and several other automobiles had a defective switch. That switch, for a couple of reasons, hitting a pothole, a bump, bumping the key ring with your knee, or a heavy key fob, could have moved that on switch into an accessory position, correct, cause a stalling of the vehicle, subsequent loss of power steering and power brakes when the engine was not on, and also the airbags would not deploy. All those things are clear, right?

On page eight of Mr. Valukas' report, there is reference to a technical service bulletin from 2005, and it says in here that the technical service bulletin counseled customers to remove heavy items from the key rings, and offered an insert to the key that would reduce the likelihood that the ignition switch would rotate inadvertently. That bulletin did not refer to the problem as "stalling," however, precisely because General Motors believed customers might associate stalling with a safety problem, and only a customer who had already experienced a stall who came to a dealer to complain,

would get information about the proposed solutions. Other customers would remain unaware of the problem, as well as GM's proposed solutions.

I am assuming that if you knew then what you knew now, you would not have allowed that sort of bulletin to be written in that way?

Ms. BARRA. That is correct.

Mr. MURPHY. Thank you. Now, I want to, however, refer to something that is taking place today, which it is important for you know. That is, I took a look at the GM current Web site with regard to the safety recall. Your comments are under your speech, et cetera, and I go to the section marked frequently asked questions. Under the item number 7, "are the recalled vehicles safe to drive?" You say, the simple answer to that question is yes. The GM engineers have done extensive analysis to make sure if you use only the ignition key with no additional items in the key ring, that the vehicle is safe to drive.

Ms. BARRA. And that is true. We have validated that. It has also been validated by NHTSA.

Mr. MURPHY. The old Cobalts that could also go into a stall——

Ms. BARRA. We are talking about as long as you have just the key or the ring, you don't end up having the moment and you don't have an ability to trap it with your knee, that that condition is not going to occur. That is what that statement is referring to.

Mr. MURPHY. They still could not hit it with their knee? OK.

Ms. BARRA. The issue is when you look at just the key, you don't create a moment to be able to do that.

Mr. MURPHY. But still what it does not say at all in this statement, customer, if you don't do this, your car may stall, you may lose power steering, you may lose your brakes, you won't have your airbag, this is an extreme safety concern. It simply says this isn't a big safety deal. And then you even say once a service repair is completed, can customer put a heavy key ring back on, you say, well, we recommend only utilize the key, key ring and key fob, if equipped, that came with the vehicle. So you say if you repair this, with the previous item that I just quoted, if you repair this, you will be fine, and later on you say, but don't change the key issue, so I don't understand how that is fixed.

Ms. BARRA. Well, first of all, on the FAQ, the frequently asked questions that you are referring to, that—there are a number of questions, and there were also opening statements. I know I personally recorded videos that we have on our Web site to truly communicate what we need to do. It has been included in our letters. So I think you have to look at the complete communication, not one question.

OK.

Mr. MURPHY. But my point is this. I am making recommendations to you. You have come before our committee and I believe you have been trying to be honest and straightforward. My recommendation to you is there are how many Cobalts still out there, how many Ions, how many other cars that are affected by this?

Ms. BARRA. Something less than 2.6 million.

Mr. MURPHY. Two point six million. And so far, I forget how many you said in your Web site have been repaired.

Ms. BARRA. Almost 200,000.

Ms. MURPHY. OK. That is a lot of cars out there——

Ms. BARRA. Right.

Ms. MURPHY [continuing]. That could still stall, you lose power steering, you can lose power brakes, you could lose control of the car, you could crash, your airbags won't deploy, some will be injured or die. I hope that that becomes a lot more glaring than simply have him go through and says, no, it is safe to drive. I don't think it is safe to drive.

Ms. BARRA. Congressman Murphy, we have sent letters, we have gone on social media, I have done videos, our dealers have been informed, we have done special training sessions. Believe me, we take it very seriously, and we want people to know that until their vehicle is repaired, that we want them to only use the key and the ring. We have done extensive communications because I don't want any other incidents to occur.

Mr. MURPHY. Ma'am, I hear what you have done. I am talking about what I would recommend you still do.

Look, the unfortunate thing about this is that with all the things that you do, like in our lives, to all the things we do to try to communicate with people, many times people don't read mail, they don't watch commercials on TV, they don't look at things like this, and so you have to try all levels in that. It isn't until it maybe gets on a comedy network or something that people pay attention. I would highly recommend that what you do in this situation is make it very clear that if you don't do this, this is a consequence. I would hope that that would be something GM would make abundantly clear because I may not know a lot about—but I know as a psychologist what motivates people, and if you give them the bold, blasting facts, if you don't do this, you could be in a serious accident, that might wake up people to understand that in order for GM to work on safety, customers have to pay attention to this too, and I hope that that is something that people across America will pay attention to.

As I said before, I thought this report could be subtitled, don't assume malfeasance when incompetence will do. There is more to it than that. We all have to take responsibility. And I see this as something that I still hope GM does more with communication.

Ms. BARRA. We will redouble our efforts there.

Mr. MURPHY. Thank you.

I now want to ask unanimous consent that the Members' written opening statements be introduced into the record, and without objection, those documents will be entered into the record.

And I ask unanimous consent that the document binder from this hearing be entered into the record, subject to appropriate written redactions by staff. *

Mr. MURPHY. In conclusion, I want to thank the witnesses today and the Members that participated in today's hearing.

I remind Members they have 10 business days to submit questions to the record, and I ask that the witnesses all agree to respond promptly to questions.

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*The information has been retained in committee files and is also available at *http://docs.house.gov/Committee/Search/Home.aspx?Keyword=Path%3a%22%2fIF02%2f%22*.

And with that, I adjourn this hearing.
[Whereupon, at 12:50 p.m., the subcommittee was adjourned.]
[Material submitted for inclusion in the record follows:]

THE COMMITTEE ON ENERGY AND COMMERCE

MEMORANDUM

June 16, 2014

TO: Members, Subcommittee on Oversight and Investigations

FROM: Committee Majority Staff

RE: Hearing on "The GM Ignition Switch Recall: Investigation Update"

On Wednesday June 18, 2014, at 10:00 a.m. in 2123 Rayburn House Office Building, the Subcommittee on Oversight and Investigations will hold a hearing entitled "The GM Ignition Switch Recall: Investigation Update." The hearing will focus on the facts and circumstances that contributed to General Motors' failure to identify a safety defect in certain ignition switches and initiate a recall in a timely manner. In particular, the hearing will examine the findings of GM's internal investigation report regarding the ignition switch recall conducted by Anton R. Valukas.

I. WITNESSES

Ms. Mary T. Barra
Chief Executive Officer
The General Motors Company

Mr. Anton R. Valukas
Jenner & Block

II. BACKGROUND: THE GM RECALL AND INTERNAL INVESTIGATION

A. The GM Recall

On February 7, 2014, GM informed the National Highway Traffic Safety Administration (NHTSA) that it had determined a defect existed in the 2005-2007 model year (MY) Chevrolet Cobalt and the 2007 Pontiac G5 vehicles.[1] GM stated that the "ignition switch torque performance" may not meet GM's specifications. If the torque performance is not to specification, and the key ring is carrying added weight or the vehicle goes off road or experiences some other jarring event, the ignition switch may inadvertently be moved out of the run position.[2] GM explained that, depending on the time the ignition moved out of the "Run" position, the airbags of the affected vehicles would

[1] Letter from M. Carmen Benavides, Director, Product Investigations and Safety Regulations, General Motors LLC, to Nancy Lewis, Associate Administrator for Enforcement, NHTSA (Feb. 7, 2014) available at http://www-odi.nhtsa.dot.gov/acms/cs/jaxrs/download/doc/UCM450012/RCDNN-14V047-1347P.pdf (hereinafter "GM February 7, 2014, Letter to NHTSA").
[2] *Id.*

not deploy. The recall was announced on February 10, 2014, and applied to 619,122 vehicles. Two weeks later, on February 25, 2014, GM expanded the recall to include an additional 748,024 vehicles: the 2006-2007 MY Chevrolet HHR, the 2006-2007 MY Pontiac Solstice, the 2003-2007 MY Saturn Ion, and the 2007 MY Saturn Sky Vehicles.[3] In its recall notices, GM stated that it is "very important that customers remove all items from their key rings, leaving only the vehicle key. The key fob . . . should also be removed from the key ring."[4] In a March 17, 2014, notice to GM dealers, GM stated that they expected the initial supply of new ignition switch parts would be available on April 7, 2014.[5]

On March 28, 2014, GM again expanded the ignition switch recall to cover all model years of the Chevrolet Cobalt and HHR, the Pontiac G5 and Solstice, and the Saturn Ion and Sky in the United States. GM states that its reason for expanding the recall was that faulty switches may have been used as service parts in these later models. GM stated that it is "unaware of any reports of fatalities with this group of vehicles where a frontal impact occurred, the front air bags did not deploy and the ignition is in the 'accessory' or 'off' position."[6] This second expansion of the ignition switch recall covers an additional 823,788 vehicles in the U.S., bringing the number of recalled vehicles to 2,191,934.

In addition, with regard to questions about whether removing the key fob and other items from the key ring would prevent the key from moving out of the "Run" position until the recall could be performed, Secretary of Transportation Anthony R. Foxx declined to advise owners of the recalled GM vehicles to cease driving their cars until the ignition switch was replaced, stating that such a warning was "not necessary."[7] In reaching this conclusion, Secretary Foxx stated that NHTSA had "thoroughly evaluated" GM's interim guidance and testing and NHTSA's own engineers had examined the "geometry and physics" of the ignition key, switch, and steering column in the recalled vehicles.[8]

NHTSA opened a "Timeliness Query" on March 4, 2014, "to evaluate the timing of GM's defect decision-making and reporting of the safety defect to NHTSA." On May 16, 2014, NHTSA announced a settlement of the Timeliness Query, stating that GM had "agreed to pay a record $35 million civil penalty and to take part in unprecedented oversight requirements as a result of findings

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[3] Letter from M. Carmen Benavides, Director, Product Investigations and Safety Regulations, General Motors LLC, to Nancy Lewis, Associate Administrator for Enforcement, NHTSA (Feb. 25, 2014) available at http://www-odi.nhtsa.dot.gov/acms/cs/jaxrs/download/doc/UCM450732/RCDNN-14V047-7510.pdf (hereinafter "GM February 24, 2014, Letter to NHTSA").

[4] *See, e.g.*, GM February 7, 2014, Letter to NHTSA; GM February 24, 2014, Letter to NHTSA; and Letter from M. Carmen Benavides, Director, Product Investigations and Safety Regulations, General Motors LLC, to Nancy Lewis, Associate Administrator for Enforcement, NHTSA (Mar. 11, 2014) available at http://www-odi.nhtsa.dot.gov/acms/cs/jaxrs/download/doc/UCM451430/RCDNN-14V047-9346P.pdf (hereinafter "GM March 11, 2014, Letter to NHTSA").

[5] Memorandum from GM Customer Care and Aftersales to All General Motors Dealers (Mar. 17, 2014) available at http://www-odi.nhtsa.dot.gov/acms/cs/jaxrs/download/doc/UCM452894/RCMN-14V047-3409.pdf .

[6] Press Release, General Motors, GM Moves to Secure Recalled Ignition Switches (Mar. 28, 2014) available at http://media.gm.com/media/us/en/gm/news.detail.html/content/Pages/news/us/en/2014/mar/0328-ignition-service.html .

[7] *See* Letter from Anthony R. Foxx, Secretary, Department of Transportation, to Senator Edward J. Markey (May 6, 2014) available at http://www.autonews.com/assets/PDF/CA9453057.PDF.

[8] *Id.*

from NHTSA's timeliness investigation regarding the Chevrolet Cobalt and the automaker's failure to report a safety defect in the vehicle to the federal government in a timely manner."[9] GM admitted in the Consent Order that it had failed to notify NHTSA of a safety-related defect within five working days as required by the Safety Act.[10] Pursuant to the Consent Order, GM agreed to have monthly meetings with NHTSA for one year following the date of the Consent Order to discuss its implementation of recommendations resulting from the GM internal investigation conducted by Mr. Valukas.[11] GM also agreed to establish improved internal reporting procedures for safety-related defects; improve employee training; and strengthen processes for identifying safety defects.[12]

B. The GM Internal Investigation and Valukas Report

In mid-March 2014, GM announced that it had retained Anton R. Valukas of the firm Jenner & Block to conduct an internal investigation of the facts and circumstances related to the the ignition switch recall. Mr. Valukas completed his report, entitled "Report to Board of Directors of General Motors Company Regarding Ignition Switch Recalls," hereinafter, "Valukas Report," on May 29, 2014.[13] GM announced the results of the Valukas investigation and the report was posted by NHTSA on its website on June 5, 2014.

During an April 29, 2014 briefing with Committee staff, and in the report, Mr. Valukas stated he was asked to determine "how and why" it took so long for GM to issue the ignition switch recall for the Chevrolet Cobalt.[14] Mr. Valukas informed Committee staff that GM placed "no limits" on his investigation; the report states that Mr. Valukas' firm, Jenner & Block, was given "unfettered access to witnesses and documents, and Jenner was asked for an unvarnished account."[15] With regard to his investigation, Mr. Valukas reported to the GM Board of Directors, although he informed Committee staff that he briefed Ms. Barra during the course of his investigation.

The Valukas Report addresses a number of critical errors that contributed to GM's failure to identify the cause of airbag non-deployments in the recalled vehicles and conduct a timely recall. For example, Mr. Valukas found that a GM engineer approved an ignition switch for the Cobalt in 2002 that did not meet GM's specifications. When GM engineers received reports, including customer complaints, in 2004 and 2005 that the ignition switch could inadvertently be turned off, those engineers misdiagnosed the problem as a fluke or isolated incident "with no safety implications."[16] Further, Mr. Valukas concluded that, with the exception of one engineer, the GM

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[9] Press Release, NHTSA, General Motors agrees to pay maximum $35 million penalty for violating federal safety laws in Chevrolet Cobalt investigation (May 16, 2014) available at http://www.nhtsa.gov/About+NHTSA/Press+Releases/2014/DOT-Announces-Record-Fines,-Unprecedented-Oversight-Requirements-in-GM-Investigation.

[10] United States Department of Transportation National Highway Traffic Safety Administration Consent Order In re: TQ14-001, NHTSA Recall No. 14V-047, May 16, 2014, at 4.

[11] *Id.* at 6.

[12] *Id.* at 7-8.

[13] *See* Report by Anton R. Valukas, Jenner & Block, Report to Board of Directors of General Motors Company Regarding Ignition Switch Recalls (May 29, 2014) (hereinafter, "Valukas Report") available at http://www.nhtsa.gov/.

[14] Valukas Report at 5; Anton Valukas, Briefing to Committee Staff (Apr. 29, 2014) (hereinafter "Valukas Briefing").

[15] Valukas Report at 5.

[16] Valukas Report at 60.

personnel who reviewed the Cobalt ignition switch complaints did not understand that the resulting loss of power would prevent the deployment of the airbags.[17] GM's failure to appreciate the safety implications of the ignition switch, and its connection to other vehicle systems, resulted in GM not pursuing investigations, issuing timely recalls, and declining to implement other fixes, such as a key change or changing the location of the ignition cylinder.[18]

Mr. Valukas' report also references problems with accountability. For example, when the ignition switch design change was made in 2006, the Design Release Engineer, Raymond DeGiorgio, did not change the part number and Mr. DeGiorgio did not seek authorization for this decision.[19] The investigations into airbag non-deployments in Cobalts, which were hampered by the failure to change the ignition switch part number following its 2006 design change, were also hindered by this lack of accountability and by "silos" of information within GM. Members of the legal staff and engineers from the Field Performance Assessment (FPA) division—a group responsible for providing technical advice and support for individual claims or lawsuits—had reviewed allegations of non-deployments in Cobalts and Ions through 2006. There was not, however, a coordinated effort to track similarities in these claims until NHTSA staff raised questions about non-deployments in Cobalts and Ions during a meeting in late March 2007. After a brief engagement by Product Investigations, the responsibility of tracking non-deployment events in Cobalts—but not Ions—was assigned to FPA. This was an unusual arrangement because these engineers typically worked on individual claims or lawsuits and did not conduct analyses of problems to identify a root cause or track complaints across vehicle models. Mr. Valukas concluded that the FPA process proceeded slowly and did not "search for or find relevant information to the problem of airbag non-deployment that was either public or actually in GM's own files."[20] In addition, Mr. Valukas identified similar failures in the Product Investigations examination of the Cobalt non-deployments from 2011 to 2013, noting that it "moved forward without any sense of urgency, ultimately taking two-and-a-half-years."[21] These problems extended to the GM legal department, where lawyers failed to share information with the GM counsel about the non-deployment cases and settlements.

Mr. Valukas concluded that there was no cover-up of the ignition switch problems. Mr. Valukas also found that GM CEO Barra did not learn of "some aspect" of the Cobalt ignition issues until December 2013.[22] Finally, the report offered 90 recommendations for the problems and failures that led to the ignition switch recall.

C. GM Actions Taken Related to Ignition Switch Recall and Valukas Report

Since GM notified NHTSA of the ignition switch recall in February, GM has announced a number of measures to improve safety at the company and to address the factors identified in the Valukas report as contributing to the delayed recall.

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[17] *Id.* at 64.
[18] *Id. at* 67-71.
[19] *Id.* at 101.
[20] *Id.* at 103.
[21] *Id.* at 212.
[22] *Id.* at 228.

For the recall campaign, GM states that it is working "around the clock," seven days a week, to manufacture the ignition switch replacement parts, including adding additional shifts and production lines at its company and at its supplier.[23] According to GM's recall website, www.gmignitionupdate.com, the manufacture of replacement parts began on April 6 and will conclude on October 4, 2014.[24] As of June 11, 2014, 396,253 ignition switch repair kits have been shipped globally and 154,731 vehicles repaired. In the United States, 339,672 kits have been shipped and 129,583 vehicles repaired.

GM also has announced changes to its corporate structure and policies. On March 18, 2014, GM created a new position —Vice President, Global Vehicle Safety — and named Jeff Boyer, a longtime GM employee, to the position.[25] During a briefing with Committee staff on May 1, 2014, Mr. Boyer explained that he provides updates on safety both to the GM Board of Directors and to CEO Barra directly. Mr. Boyer indicated that GM has added product investigations staff, whom he described as "highly experienced engineers," and is working to restructure the recall process to bring matters under investigation "promptly" through the process.[26] In addition to adding staff, GM plans to bring in new capabilities, including data analytics, to spot emerging safety trends. Finally, GM has instituted an internal safety campaign, "Speak Up For Safety," to encourage employees to "report potential safety issues quickly and forcefully."[27]

When the Valukas report was issued last week, GM announced that 15 employees "who were determined to have acted inappropriately" are no longer with GM and another five employees have been disciplined. GM has not identified these individuals or whether specific individuals were terminated or permitted to retire.

GM announced on June 5, 2014, that it would create a compensation fund and that this fund would be administered by Kenneth Feinberg. Mr. Feinberg is currently developing the criteria for the fund and GM CEO Barra indicated that the fund will begin accepting claims on August 1.[28] It is not clear whether GM has provided any parameters to Mr. Feinberg or whether it has set a cap on the fund.

The Cobalt ignition switch recall has prompted GM to initiate a wave of other recalls. Since January, the company has announced 38 separate recalls, totaling more than 14.4 million cars in the

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[23] *See* http://www.gmignitionupdate.com/faq.html#R1; *see also* http://media.gm.com/product/public/us/en/gmignitionupdate/News.detail.html/content/Pages/news/us/en/2014/May/0516_ignition-parts.html

[24] *See* http://www.gmignitionupdate.com/doc/infographic_ignition_recall_final.pdf.

[25] Press Release, General Motors, GM Announces New Vehicle Safety Chief, Jeff Boyer named Vice President, Global Vehicle Safety (March 18, 2014) available at http://media.gm.com/media/us/en/gm/news.detail.html/content/Pages/news/us/en/2014/mar/0318-boyer.html.

[26] Jeff Boyer, Briefing to Committee Staff (May 1, 2014).

[27] *See* Press Release, General Motors, GM Receives Extremely 'Thorough,' 'Brutally Tough' and 'Deeply Troubling' Valukas Report (June 5, 2014) available at http://media.gm.com/product/public/us/en/gmignitionupdate/News.detail.html/content/Pages/news/us/en/2014/Jun/0605l4-ignition-report.html.

[28] Press Release, General Motors, GM to Implement Compensation Program for Ignition Switch Recall (June 5, 2014) available at http://media.gm.com/product/public/us/en/gmignitionupdate/News.detail.html/content/Pages/news/us/en/2014/Jun/0605l4-ignition-recall.html.

United States.[29] The most recent, announced last Friday, June 13, 2014, applies to all "current generation" Chevrolet Camaros, totaling 464,712 cars in the United States.[30] According to GM's press release, a driver sitting close to the ignition can bump the key with his knee, knocking the key out of the "Run" position and turning off the car — a problem similar to the faulty Cobalt ignition switch. GM claimed in its press release, however, that this recall was "unrelated" to the Cobalt ignition switch recall: the Camaro switch met its specifications and was discovered by GM engineers during internal testing following the Cobalt ignition switch recalls in February.[31]

III. THE COMMITTEE'S INVESTIGATION

A. Summary of the Committee's Investigation

On March 10, 2014, the Committee announced that it would conduct a bipartisan investigation of the GM ignition switch recall. On March 11, 2014, Committee members sent letters to GM and NHTSA requesting certain documents and information about the GM recall. The Oversight and Investigations Subcommittee held a hearing on April 1, 2014, entitled "The GM Ignition Switch Recall: Why Did It Take So Long?" GM CEO Barra and NHTSA Acting Administrator David Friedman were the only witnesses.

To date, the Committee has received and reviewed over 1 million pages of documents from GM and approximately 15,000 pages from NHTSA. GM and its ignition switch supplier, Delphi, continue to produce documents to the Committee. NHTSA informed the Committee on May 28, 2014, that it had completed its production of documents responsive to the Committee's requests.

Since the last hearing, Committee staff has conducted numerous interviews, including transcribed interviews, of key GM and NHTSA officials with knowledge of the facts and circumstances relating to the ignition switch recall. The Committee expects to conduct additional interviews before completing its investigation.

B. Answers to Questions Raised at the April 1, 2014, Hearing

A number of questions were raised at last the hearing that Ms. Barra said could not be answered until Mr. Valukas completed his investigation. The Committee expects to pursue answers to these questions, and examine the information set forth in the Valukas report related to these questions, at the June 18 hearing.

- *Why did GM accept an ignition switch that did not meet its specifications for torque?* Mr. Valukas states that he was not able to identify any GM personnel, other than the Design Release Engineer (DRE) for the Cobalt ignition switch, Raymond DeGiorgio,

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[29] Press Release, General Motors, 2014 Year to Date North American Recalls Including Exports (May 28, 2014) available at http://media.gm.com/media/us/en/gm/news.detail.print.html/content/Pages/news/us/en/2014/May/0528-ytd-recalls.html.

[30] Press Release, General Motors, GM Proactively Announces Four New Recalls (June 13, 2014) available at http://www.gm.com/article.content_pages_news_us_en_2014_jun_0611-recall.html.

[31] *See id.*

who knew that the Cobalt ignition switch failed to meet its specification for torque when it was manufactured in 2002.[32] Neither GM nor its ignition switch supplier, Delphi, have been able to locate the required documentation from the 2002 Production Part Approval Process, or "PPAP," through which GM parts are tested, validated, and approved for production. The Valukas Report states that it was Delphi's responsibility to maintain this document.[33] Mr. Valukas noted that there are "inconsistent accounts" of whether GM policies allowed Mr. DeGiorgio to approve the part on his own and whether the deviation from specifications should have been documented. At the April 1 hearing, Ms. Barra suggested that deviations from individual specifications may be approved depending on the performance of the part as a whole.

- *Why did GM not identify stalling as a result of the ignition switch falling from "Run" to "Accessory" as a safety issue?* The Valukas Report found that the GM engineers generally "did not regard moving stalls as an inherent safety problem . . . because a driver would be able to control the car and steer it to the side of the road."[34] This view was shared by both the GM personnel who received reports about the Cobalt ignition switch inadvertently turning the car off and who reviewed potential solutions to this problem. The interviews conducted by Committee staff to date substantiate this finding. The decision to categorize the Cobalt ignition switch stalls as a "convenience" rather than a "safety" issue had consequences on GM's analysis of the problem and potential solutions, as cost is a factor when considering whether to adopt a fix for a "convenience" issue; it is not a consideration when a defect is safety-related.[35] The Valukas Report also details GM's discussions with NHTSA during 2004-2005 relating to engine stalls—conversations that occurred at the same time as the complaints about Cobalt stalls but, according to Mr. Valukas, did not address the Cobalt stalls specifically.[36] During these discussions, GM presented its criteria for determining when a stall presented a safety problem; Mr. Valukas found it was not clear whether NHTSA agreed with GM's analysis.
- *Did GM engineers consider how the ignition switch problems would affect other vehicle systems, in particular, the airbags?* Mr. Valukas found that GM engineers did not have a sufficient understanding of how the Cobalt worked and therefore, did not appreciate that inadvertently turning the ignition switch also would result in a loss of power that disabled the airbags.[37] Documents produced to the Committee to date substantiate the findings of the Valukas report: GM employees who were notified of problems with the ignition switch and stalling in the early 2000s do not appear to consider or discuss its link to other vehicle systems. This lack of awareness extended to the GM engineers who investigated the cases of airbag non-deployments in Cobalts beginning in 2006. The Field Performance Assessment engineers tracked the non-deployment incidents to identify trends and reviewed data, including the downloads from Sensing Diagnostic Modules (SDMs). For some incidents, but not

[32] Valukas Report at 50.
[33] *Id.* at 51.
[34] Valukas Report at 64.
[35] *Id.* at 63-71.
[36] *See id.* at 72-75.
[37] *See, e.g.*, Valukas Report at 72, 83-84, 87-88.

all, the SDM data showed that the ignition was in the "Accessory" position at the time of the crash, but the FPA engineers did not realize that the power mode of the car was a potential cause of the non-deployment until a 2009 review of SDM data from Continental, an SDM supplier. Even so, the FPA engineers did not contact the ignition switch engineer or uncover information from 2004-2005, when the Cobalt engineers were addressing concerns about the ignition switch torque.[38]

- *Why did GM not change the part number of the ignition switch in 2006?* In April 2006, the Cobalt Design Release Engineer for the ignition switch, Raymond DeGiorgio, signed a Form 3660, which authorized Delphi, the supplier, to begin manufacturing a redesigned switch for the Cobalt. That form listed three changes: two electrical changes and one for a new detent plunger to increase torque. According to the Valukas Report, each Form 3660 must link back to a work order; in the case of the 2006 ignition switch redesign, the work order only listed the electrical changes.[39] Further, GM policy required that the part number be changed if the design change affects "fit, form, or function."[40] The 2006 change to the Cobalt ignition switch met this requirement, as the increased torque changed its function. Mr. Valukas states that Mr. DeGiorgio does not remember anything related to why a new part number was not assigned.[41] It is unclear whether or how the fact that the internal components of the Cobalt ignition switch were considered a "black box design," meaning that the supplier could design the components so long as it met GM's specifications and requirements, contributed to the decision not to change the part number or document the change on the work order.[42]
- *Did the GM culture contribute to the failure to issue an ignition switch recall sooner?* Mr. Valukas discussed a number of issues relating to the GM culture in the report, including describing such GM terms as the "GM nod" and "GM salute," both expressions referring to a "proliferation of committees and a lack of accountability."[43] Mr. Valukas stated that "[w]hether general 'cultural' issues are to blame is difficult to ascertain, but the story of the Cobalt is one in which GM personnel failed to raise significant issues to key decision-makers."[44]
- *Why did GM's first recall announcement not include all the models and model years that received the defective ignition switch?* Mr. Valukas found that "incomplete information" was presented to the Executive Field Action Decision Committee (EFADC), the GM committee that determines when to initiate a recall. In particular, the Product Investigations engineer who examined the Cobalt airbag non-deployment cases failed to collect information on the Saturn Ion and Chevrolet HHR when he opened the investigation in 2011. Therefore, the information presented to the EFADC was inaccurate, as it did not include the Ion fatalities and other incidents of non-deployments in these cars.[45]

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[38] *See id.* at 134-135.
[39] *See id.* at 98.
[40] *See id.* at 100.
[41] *Id.* at 101.
[42] *See id.* at 40 and 102, n. 417 (discussing the black box changes to the ignition switch).
[43] *Id.* at 252-256.
[44] *Id.* at 253.
[45] *Id.* at 215-226.

IV. ISSUES

The following issues may be examined at the hearing:

- Is the Valukas Report the end of GM's internal investigation of the facts related to the ignition switch recall?
- Does GM believe that the kinds of systemic failures and mistakes that contributed to the failure to issue a timely recall of the Cobalt and Ion ignition switches may have affected other investigations and recalls?
- How did the culture and systemic problems that are identified in the Valukas report develop at GM? What must be done to address these problems and when will GM know if they have been successfully fixed?

V. STAFF CONTACTS

If you have any questions regarding this hearing, please contact John Ohly or Karen Christian of the Committee staff at (202) 225-2927.

CENTER FOR AUTO SAFETY
1825 CONNECTICUT AVENUE NW SUITE 330 WASHINGTON DC 20009-5708
202-328-7700 www.autosafety.org

June 17, 2014

Anton R. Valukas
Jenner & Block
353 N. Clark Street
Chicago, IL 60654-3456

Dear Mr. Valukas:

Your report to GM's Board of Directors on Ignition Switch Recalls [hereinafter "Valukas Report"] avoided and missed crucial facts and issues in constructing what amounts to a corporate defense against criminal charges. The report repeatedly omitted materials that show GM at its highest levels of management considered stalling to be a safety defect. The report does not consider the handling of Early Warning Reporting (EWR) death and injury reports at GM which revealed the ignition switch deaths and injuries as early as 2004. The report contains selected materials from GM's Product Investigations employees that omit key document related to stalling alone as a safety defect. The report also selectively cites and misstates materials on stalling within the auto industry.

Early Warning Reporting (EWR): The Report failed to investigate the biggest body of evidence available on Ignition Switch stating on p. 279: "We do not understand that GM is alleged to have violated its obligation to submit these EWRs, and such routine reporting is not the focus of this investigation." Yet the 2,039 Death and Injury Reports filed under EWR by GM with NHTSA on the recalled vehicles are the single biggest repository of information on real world ignition switch related, deaths, injuries and crashes at GM. Yet the Report doesn't address these files, who receives them at GM, how they are analyzed and sent to NHTSA.

From 2004 to 2007, GM sent NHTSA 19 summary EWR death reports on components likely to be associated with ignition switch failure. NHTSA sent a Death Inquiry to GM for 17 out of 19 of these summary reports. GM responded by sending the underlying records behind the EWR death report. What was the process for retrieving these documents and sending them to NHTSA? We know from NHTSA files that NHTSA sent the Death Inquiries to Gay Kent who sent the responsive documents back to NHTSA. As the head of Product Investigations, Gay Kent was a key player in Ignition Switch. The Valukas report cited 8 different documents and communications to or from Gay Kent plus referenced her actions numerous times through the report. We could not find any reference to her role in EWR and what insights she would have gotten from the EWR reports. In addition, the Report does not reference her role in the recall discussed above even though she submitted the Part 573 report.

Trooper Young's report in the Rademaker-Weigel fatal crash in Wisconsin was the subject of a summary EWR report sent to NHTSA for the fourth quarter of 2006 in January 2007. On May 4, 2007, NHTSA sent Gay Kent a Death Inquiry for this crash to which she responded on June 11, 2007. Yet there is no record in the Valukas Report showing any interview of Gay Kent on whether she reviewed this or any of the 16 other EWR death reports sent to NHTSA in response to a Death Inquiry on a recalled Ignition Switch vehicle. The Report states Dwayne Davidson submitted the accident

report "to NHTSA in connection with GM's quarterly death and injury report in 2007." This is clearly wrong because only summary information is submitted in the quarterly reports and actual documents and only submitted whenever NHTSA sends a Death Inquiry.

The Stalling is not a Safety Defect Strawman Argument: The constant theme throughout your report is that stalling is not a safety defect.[1] "In 2004, however, GM engineers, faced with a multitude of reports of moving stalls caused by the ignition switch, concluded that moving stalls were not safety issues because drivers could still maneuver the cars . . .[2]

The Report makes a subtle but futile distinction that stalling is not a *per se* safety defect. In the 1970's, NHTSA litigated a series of defect cases in the federal courts that established loss of vehicle power on the road as a safety defect.[3] Thus it doesn't matter if stalling is a *per se* safety defect or not, it's a safety defect. The Report cites Ford failure to recall its TFI module for stalling to support its position that "moving stalls did not pose an unreasonable threat to motor vehicle safety . . ."[4] This is a terrible example because Ford withheld documents from NHTSA that would have resulted in a recall had NHTSA known of the documents. Plus a California Court cited Ford's deception in ordering a statewide recall of Ford vehicles with the TFI module.[5]

GM Senior Management & Field Action Decision Committees Approved Stalling Recall on May 26, 2004: The Valukas Report fails to cover the action by GM's top committees for safety recalls which decided stalling alone was the basis for a recall after a protracted battle with NHTSA over doing the recall. GM's Part 573 Recall Report in 04V-289 states:

> General Motors has decided that a defect, which relates to motor vehicle safety, exists in certain 2002 model year Oldsmobile Bravada and GMC Envoy vehicles . . . . [T]he ECAS may produce a brief electrical spike while the vehicle is operating. This electrical spike can disrupt the powertrain control module (PCM) causing the vehicle to stall. If the spike damages the PCM, the vehicle may not restart. If this happens while the vehicle is moving, a crash could occur without prior warning.
> NHTSA opened a preliminary investigation regarding this condition on January 3, 2003 and upgraded the investigation (EA03-007) on May 6, 2003. On April 27, 2004, NHTSA indicated it intended to review this issue at an Internal panel to confirm there is sufficient evidence of a safety defect to request GM to recall subject vehicles. NHTSA convened an Internal panel meeting on May 20, 2004.

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[1] "The opening of this original Cobalt PRTS report and its designation of the problem as a non-safety issue highlights a broader issue that affected the entirety of GM' s investigation of the Ignition Switch. Individuals at GM generally did not regard moving stalls as an inherent safety problem.[252] Their view - at the time and repeated in investigative interviews - was that moving stalls were not safety issues because a driver would be able to control the car and steer it to the side of the road." Valukas Report at 64.

[2] Valukas Report at 2.

[3] In U.S. v. General Motors Corp., 413 F.Supp. 933 (D.D.C. 1976), Judge June Green ruled: "Even if this "defect" were not *per se* related to "motor vehicle safety", the uncontested facts of this case establish that fuel inlet plug failure results in several obvious and undeniable safety hazards. First, once the plug fails, the car 'will stop running'. The driver must then either abandon his vehicle in the midst of oncoming traffic or, if he can, pull over to the side of the road. Both situations are dangerous."

[4] Valukas Report at fn 280.

[5] NHTSA Chief Counsel Frank Seales to Ford Motor Co., June 26, 1998. *Howard v. Ford Motor Co.*, (Case No. 763785-2, Alameda County Sup. Ct. Aug. 29, 2000.)

The GMNA Senior Management Committee reviewed the issue and on May 26, 2004 the Field Action Decision Committee decided to conduct a safety recall.

The Report's failure to cite this recall and action by top GM management to approve it is all the more inexplicable given that the report cites some of the events in NHTSA's defect investigation leading up to the recall as if they established a basis for not doing stalling recalls. The Valukas Report states "[Gay] Kent, Bill Kemp, Keith Schultz, and others engaged with NHTSA in the late spring of 2004 regarding engine stalling more broadly." Some of the key events cited in the Valukas Report in this section such as the May 17, 2004 Milford Proving Grounds Stalling Demonstration are in NHTSA Defect Investigations PE03-001 and EA03-007 and appear to be nothing more than an effort to ward off recall 04V-289 by GM. The Valukas Report doesn't cite the May 4, 2004 meeting at which NHTSA provided a survey showing 76 of 76 consumers with the subject vehicles said stalling was a safety hazard. On May 20, NHTSA convened a panel to review EA03-007 for a recall request, at which point GM convened its Field Action Decision Committee and decided to conduct a safety recall.

Conclusion: The Valukas Report is clearly flawed in accepting GM's explanation that its engineers and senior managers did not know stalling was safety related. GM lost the first litigated stalling case in 1977 brought by the National Highway Traffic Safety Administration. GM senior management reviewed and approved the Envoy-Bravada stalling recall 04V-289 demanded by NHTSA in May 2004 before the Ignition Switch defect became full blown. The Report fails to probe GM's EWR reporting designed to detect defects like the Ignition Switch. Furthermore, the Report ignores 300 stalling recalls conducted by other manufacturers. Based on these omissions, one must conclude the Report was designed to avoid criminal prosecution by the Justice Department.

Sincerely,

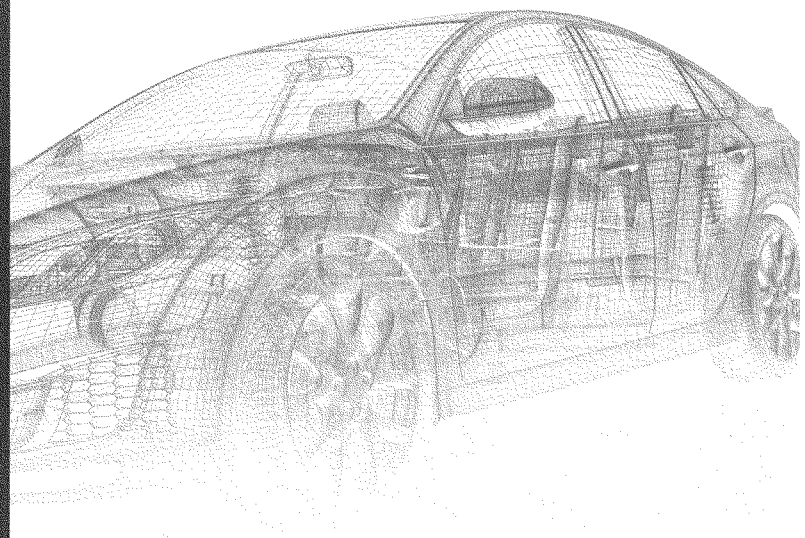
Clarence Ditlow
Executive Director,

cc: Anthony Foxx, US Secretary of Transportation
David Friedman, NHTSA Acting Administrator
Senator Jay Rockefeller
Senator John Thune
Senator Claire McCaskill
Senator Dean Heller
Senator Richard Blumenthal
Senator Edward Markey
Rep. Fred Upton
Rep. Henry Waxman
Rep. Tim Murphy
Rep. Diana DeGette
Preet Bharara, US Attorney, SDNY

THE AMERICAN ASSOCIATION *for* JUSTICE

DRIVEN TO SAFETY

JUNE 2014



AMERICAN ASSOCIATION *for* JUSTICE

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Introduction

GM's fatal ignition switch scandal has once again brought the issue of automobile safety to the forefront. Like so many previous cases, a lawsuit has uncovered what is an unfortunately recognizable pattern: an automobile manufacturer discovers a defective design, but refuses to fix it because it puts profits over people.

In the latest case, GM recalled more than 2.6 million cars because of ignition switches that had a defect that allowed them to slip from the "on" position to the "accessory" position, shutting off engines, power steering, and brakes, and disabling airbags. Incredibly, GM knew of the fatal ignition switch defect as far back as 2001, but decided not to fix it because it would have meant adding a 57 cent part to the cost of each car. The danger was finally exposed by a lawsuit brought by a driver's family. At least 13 deaths have been linked to the defect, though consumer advocates believe that number may be higher.

Up until the 1960s, car manufacturers were only held liable for defects in construction that resulted in accidents and had largely avoided responsibility for defects in design.[1] Even when a design defect caused a car to burst into flames, manufacturers succeeded in persuading courts that "no duty exists to make an automobile fireproof."[2]

Manufacturers knew that car design – particularly in regard to steering columns, dashboards, windshields, and passenger restraints – was extremely unsafe to car occupants, but did nothing about it. Style was valued over safety. The cost of largely unnecessary styling changes amounted to, at the time, $700 per car, yet the average safety expenditure amounted to just 23 cents. For instance, many manufacturers used chrome enamel dashboards for their aesthetic value, despite evidence that the dashboards commonly reflected sunlight into drivers' eyes and blinded them.[3]

In the 1960s, court cases began highlighting the dangers of car design

and the willful negligence of manufacturers in designing cars that they knew to be unsafe.[4]

In 1964 in Michigan, David Larsen was driving a Chevy Corvair when he was involved in a head-on collision. The Corvair's steering mechanism was thrust backwards, ramming the steering wheel into Larsen's head. A court would hear that the Corvair's steering mechanism consisted of a solid shaft that began less than three inches from the front of the car's tires. The unabsorbed forces of a head-on crash were transmitted directly towards the driver's head.[5]

The Larsen case became a landmark decision. GM claimed they had no duty to design an automobile that would protect the occupant if an accident occurred. The court disagreed and thus sent a message that car manufacturers had to change their ways.[6]

Courts, however, have consistently recognized that NHTSA alone cannot protect consumers, and regarded the agency's regulations as a floor, not a ceiling.

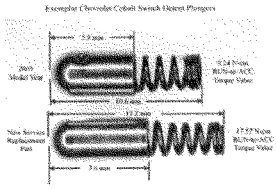
Since then the civil justice system has proved to be the most effective, and sometimes the only, mechanism for the protection of consumers. Though safety is often seen as the purview of regulation, the lobbying might of the automobile industry has meant that the National Highway Traffic Safety Administration's (NHTSA) responses to safety concerns have often been delayed by years, and watered down upon arrival. Courts, however, have consistently recognized that NHTSA alone cannot protect consumers, and regarded the agency's regulations as a floor, not a ceiling.

Today, there are nearly 10,000 fewer highway deaths per year than there were half a century ago. When vehicle miles traveled is taken into account, the ratio of fatalities is five times lower. In large part this is because of manufacturer accountability that was driven by the civil justice system.[7]

Litigation will ultimately play a key role in identifying what went wrong in the most recent safety issue—the GM ignition switch debacle. These findings will aid regulators and legislators in protecting the American public in the future. By holding manufacturers accountable, the civil justice system will continue to protect Americans, while spurring generations of safety innovations, as it has done for more than half a century.

Ignition Switches

Brooke Melton, a pediatric nurse from Hiram, Georgia, died on her 29th birthday when the ignition switch on her 2005 Chevy Cobalt slipped from the "on" to the "accessory" position, leaving her without power steering, brakes, or functioning air bags, causing her to travel into the opposite lane and crash into another car. Her parents, Ken and Beth, vowed they would find out what had caused Brooke's death, and thus began a long fight against GM to uncover the truth.[8]



A comparison of the defective ignition switch and its eventual replacement. The slight difference was enough to prevent unintentional shut-off.

It was the combined efforts of the investigative work of an engineer hired by the Melton family's trial attorney, Lance Cooper, the subsequent legal investigation, and pursuit of GM's internal documents that spurred the massive recall of millions of Chevys, Pontiacs, and Saturns. Using black box data, the engineer discovered that Brooke's ignition switch had slipped from "run" to "accessory" three seconds before the crash. Upon further investigation of the ignition switch, he discovered that two of the parts, a small metal piece called a detent plunger and an attached spring, were significantly shorter than replacement parts he had recently purchased from a GM dealership and others he'd pulled from various model year Cobalts found in junkyards. Though the part identification numbers were the same, the new parts were 1.6 millimeters longer than the old, which made it substantially harder for the switch to change positions.[9]

The lawsuit uncovered documents proving that at least one GM engineer was aware of the problem prior to the release of the car in 2004 and well before Brooke purchased her Cobalt in 2005. Additional documents show that a GM engineer signed off on ignition switch design changes recommended by the part's supplier, Delphi Mechatronics, in April 2006. Despite clear evidence of the problem, GM did not notify regulators or car owners of what it knew. Internal documents show GM believed a 57 cent part would

fix the problem, but concluded "[N]one of the solutions represents an acceptable business case."[10]

In 2009, GM filed for bankruptcy and received a bailout from the U.S. Government, which eventually resulted in a taxpayer loss of $10.5 billion. A significant consequence of the bankruptcy filing was that GM shielded itself from all liability related to injuries and deaths that occurred as a result of defects in its vehicles before July 10, 2009.[11]

As recently as September 2013, GM's lawyers were threatening families whose loved ones had been injured or killed because of the defect, saying that they would come after them for sanctions and attorneys' fees if they tried to pursue their claims.

The "new GM" emerged from bankruptcy continuing to maintain there was no problem with its cars, and took a hard line with those who suggested otherwise. As recently as September 2013, GM's lawyers were threatening families whose loved ones had been injured or killed because of the defect, saying that they would come after them for sanctions and attorneys' fees if they tried to pursue their claims.[12]

GM's internal findings remained hidden until depositions in the Melton's lawsuit started in April 2013. These discoveries led to the 2014 recalls of millions of GM vehicles and subsequent Congressional investigations into GM's behavior. At least 12 additional deaths have been linked to the defect, though consumer advocates believe that number may be higher.[13]

Side Impact Design

In 1974, Richard Dawson, a police officer with the Pennsauken Police Department in New Jersey, lost control of his Dodge Monaco while driving to respond to a burglar alarm. The side of the car struck an unyielding steel pole. Though eyewitnesses reported the car hit the pole at less than 26 miles per hour, the pole ripped through the car and crushed Dawson. He was left quadriplegic with no control of his body from the neck down and in need of constant medical care.

During the ensuing court case, Dawson's attorneys argued that the vehicle design was defective because it was unable to withstand side impacts at even relatively low speeds. The vehicle had a non-continuous frame, and between its front and rear frame portions was a 17-inch gap. Evidence showed the steel pole slid along the car body until it reached the gap, and then tore through the vehicle, smashing Dawson. Had the vehicle had a full continuous frame, it would have protected the car from being cut in half by the pole.

Chrysler argued that it had no duty to produce a "crashproof" vehicle, and furthermore, had met all existing regulatory standards.

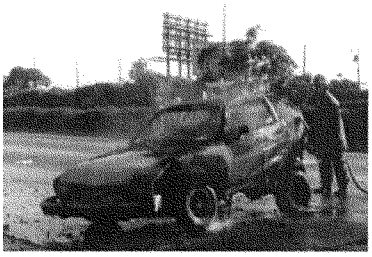
Chrysler argued that it had no duty to produce a "crashproof" vehicle, and furthermore, had met all existing regulatory standards. They also pointed out that a full continuous frame would add $300 to the price of the vehicle.

The court disagreed and held Chrysler responsible for the defective design. Car manufacturers now routinely build cars with stiff, strong unibody designs that offer more protection to occupants in a crash.[14]

Gas Tanks

Barely a decade after the groundbreaking Larsen case, which established that auto manufacturers could not just ignore safety, litigation over the Ford Pinto sent another message to the automobile industry. The Pinto became notorious after court cases highlighted a faulty design that left the gas tank unprotected and resulted in explosion, even in minor rear-end accidents.

Internal documents revealed Ford knew of the problem and could have fixed it for as little as $11 per car, but calculated that it would be more profitable to sell the car as-is. In *Grimshaw v. Ford Motor Company* (1981), a California appeals court awarded $125 million in punitive damages (later reduced) to the victims of a Pinto explosion.



The Pinto's design met all government standards of the time. Had compliance with federal standards been a complete defense, as many auto industry lobbyists have proposed over the years, Ford could not have been held responsible for the many burn victims that the company itself anticipated. As it was, the litigation spurred the adoption of new requirements for fuel tank performance in rear-end collisions.[15]

Other similar cases, such as the General Motors "side saddle" gas tank and the Chevy Malibu, highlighted the dangers of defective gas tank design. In the case of the Malibu, Chevy spurned fixing the problem for just $8.40 per car because it calculated that paying an anticipated 500 victims of fatal accidents would cost only $2.40 per car – in other words it would be cheaper to let people burn than to fix the problem. As a result of such cases, gas tanks are now universally located within cars' rigid frames. According to Logan Robinson, a University of Detroit law professor and former general counsel for Chrysler, litigation caused manufacturers to redesign the placement of gas tanks, and "now, most all cars are designed to take at least a 50-mph hit."[16]

Air Bags

In 1991, Rebecca Tebbetts, a 19-year-old college student from New Hampshire, was killed after her 1988 Ford Escort slipped down an embankment and hit a tree. The car was not equipped with an air bag. Tebbetts' mother filed a lawsuit against Ford, one of more than 100 alleging that automakers knew that the absence of air bags resulted in thousands of unnecessary deaths every year.[17]

Automobile manufacturers have been developing air bag technology since at least the 1950s and testing it in cars since at least the late 1960s. General Motors was even offering air bags as an option on certain model cars by the mid-1970s. Yet by 1988, only two percent of new cars were equipped with air bags.[18]

[GM did] "not believe that automatic restraint system malfunctions will be sufficiently prevalent to warrant such attention."

Though the auto industry was aware of the safety benefits of air bags, it was remarkably slow in marketing the technology. General Motors, for instance, stopped its air bag development though it had once been a leader in air bag research and previously said it could equip all its cars. In comments filed with NHTSA, GM told the regulator that it planned to abandon projections on the number of air bag-equipped cars it would manufacture. GM cited NHTSA's plans to closely monitor "automatic restraint system malfunctions" saying the company did "not believe that automatic restraint system malfunctions will be sufficiently prevalent to warrant such attention." This decision came despite the company's own market research on consumer attitudes toward air bags, which showed that as early as 1971, between 40 and 50 percent of customers were willing to pay extra for air bags. *The Wall Street Journal* even reported that GM refused to promote airbags and, "instead, the company and its dealers actively discouraged sales."[19]

Courts, however, found that the manufacturers knew full well that the absence of air bags made cars less safe, and held them responsible for the consequences. Manufacturers either lost in court or were forced to settle, and until eventually, manufacturers began installing air bags as standard.[20]

Power Windows

In June 2004, a Dallas-area mother stopped her Ford F-150 to talk to her husband through the driver's side window. Her 3-year-old daughter, Yencey Ayala, leaned out of the passenger's side window and accidentally hit the rocker switch, causing the window to close on her neck. Though the girl's parents noticed moments later, it was too late. The girl died from strangulation.[21]

As power windows became more common, so too did instances of children being accidentally strangled. In 2004, seven children died within the space of three months. The safety issue with power windows involved the "rocker" style switch, which can inadvertently close the windows if a child leans on it. Manufacturers were well aware of the issue, and the fix was relatively simple and inexpensive. In response to regulations in other countries, European and Asian cars already used a safer switch – one that must be pulled upward to raise a window – and so did many American manufacturers on cars they offered to foreign markets. Yet incredibly, American manufacturers did not install the safer switches on domestic cars, since NHTSA had no rules governing power window safety.

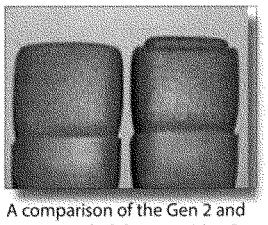
"[T]here's only so much automakers can do to prevent these tragedies. At some point the parents have a responsibility to make sure children are supervised."

At one point a Ford spokesperson defended the manufacturer by saying, "there's only so much automakers can do to prevent these tragedies. At some point the parents have a responsibility to make sure children are supervised."[22]

Seat Belts

In 1996, Bart Moran's 1997 Dodge Minivan was involved in a low-speed rollover in Corpus Christi, Texas. Moran's seat belt unlatched and he was thrown from the van, suffering a broken neck and massive head injuries. He died the next day, leaving behind a wife and 8-month-old daughter.

Court cases highlighting the dangers of cars with inferior or no seat belts spurred major safety improvements, with both seat belts and seat backs redesigned in response to litigation.



A comparison of the Gen 2 and Gen 3 seat belt buttons. The Gen 3 had a button that protruded from the cover.

One example was the Gen 3 seat belt installed in more than 14 million DaimlerChrysler cars and minivans, including the one Bart Moran was driving. The Gen 3 had a button that protruded over the button cover, allowing it to be accidentally depressed by a flailing arm or loose object. At least 15 deaths and 18 serious injuries were caused by its malfunction. Even after Chrysler's engineers identified the problem and recommended a newer, safer seat belt, the car manufacturer continued to use the Gen 3 in many models, often in the back seat.

In 2000, Bart Moran's widow Yvonne won a $6.7 million court award from DaimlerChrysler and the seatbelt manufacturer, which helped force the car company to install safer seat belts throughout all its cars.[23] Other cases highlighted auto manufacturers' failure to install rear seat belts. Car companies had installed rear three-point seat belts in the cars they manufactured for foreign markets, but domestically they stuck to lap seat belts in order to save $12 per car. Again, while regulators refused to investigate or institute rules regarding rear seat belts, car manufacturers did begin installing three-point rear seat belts after being held accountable in court.[24]

Seats

In 1996, Kevin Gleason strapped his five-year-old daughter into the back seat of his Buick Century. He then sat in the passenger seat in front of her. When their car was struck from behind by a pickup going less than 25 miles per hour, Gleason's seat collapsed backwards and killed his daughter.[25]

"[P]robably among the most egregious, widespread safety defects to be found."

Safety engineer Mark Pozzi described the design of many seats as "probably among the most egregious, widespread safety defects to be found." Both manufacturers and regulators have long known that seats not built to withstand accidents can cause serious or even fatal injuries for passengers in cars. Engineers have been able to design seats that both provide protection to the seat occupant and withstand collapsing onto other occupants. GM engineers admitted that seats costing just $1 more could reduce injury levels by up to 90 percent. Yet because NHTSA regulations do not require such seats, many manufacturers did not bother installing them. In 1996, for instance, Chrysler Sebrings were produced with seats that could withstand 3,300 pounds of force, yet the next year the company sold Dodge Rams with seats that could only take 605 pounds of force.

As a result of lawsuits highlighting the issue, seats are engineered to be stronger and with added safety innovations.[26]

Illusory Park

Kim Golden parked her 1997 Dodge Caravan and got out to speak with a friend, leaving her 4-year-old daughter in the car. Moments later the van began to roll away with her daughter inside. Golden chased after the van and grabbed a door in an effort to stop it. She was knocked down and crushed under a wheel. She died, five months pregnant with twins.[27]

In the 1970s and 80s, Chrysler and Ford produced cars with defective transmission designs. This defect produced an "illusory park" position, giving the driver the impression that the car was secured when in fact it was not. Vibration or slamming of a car door could cause the car's transmission to slip out of the "park" position and into reverse gear. At least 90 injuries and deaths were reported as a result of this defect.

A "smoking gun" interoffice memo discovered during litigation established that Ford engineers had been aware of the "illusory park" problem since 1971 but had taken no action to correct it. The jury found the transmission design defective and, critically, that Ford had failed to give drivers adequate warnings of the problem. Ford finally eliminated the "illusory park" position hazard after it lost two lawsuits filed by people injured as a result of the design.[28]

However, the same problem reappeared in the 1990s. Reports began to circulate about rollaway problems with Chrysler's Minivans and Dodge Dakotas after the vehicles would appear to slip from the park position. For years, Chrysler denied there was a problem and then blamed it on driver error.

Privately, they knew the problem could be fixed but decided not to take action. In 1994, Chrysler safety managers urgently recommended installing brake shift interlock – a system that requires drivers to depress the brake pedal in order to shift out of park – in its minivans. Chrysler executives rejected the recommendation, saying if they installed it on the minivans, they

would have to install it on all Chrysler cars, which would be too expensive. The cost was estimated at $9 per car.[29]

Eventually in 2000, 10 years after their first production, Chrysler recalled more than 150,000 Dodge Dakotas. As of 2001, Chrysler installed brake shift interlock on all its minivans.

Just months later, NHTSA began investigating another Chrysler car, the Jeep Cherokee, which had the same transmission as the Dakota, after a series of lawsuits were filed on behalf of injured people. Over 700 alleged incidences of unintended shifting were reported. Again, Chrysler blamed driver error until one of its engineers admitted in depositions that it was possible to place the gear shifter so it appeared to be in park but was not actually secure. A door slamming or an air conditioner turning on could be enough to shift the car into gear. NHTSA investigators were able to duplicate the problem, and Chrysler finally relented and recalled 1.6 million Jeeps.[30]

Roof Crush

On September 11, 1997, Penny Shipler, a 29-year-old single mother from Nebraska, was seriously injured after the Chevy Blazer she was riding in was involved in a rollover accident. The roof of the Blazer collapsed more than eight inches, crushing her spine and paralyzing her from the neck down.[31]

The remains of Penny Shipler's Chevy Blazer

As far back as the 1960s, car manufacturers knew that the roof strength of their cars was inadequate. After one case, in which a passenger was crushed when the roof of a Buick collapsed, the court held that "it is the obligation of automobile manufacturers to provide more than a movable platform capable of transporting passengers from one point to another."[32]

In 1971, the National Highway Safety Bureau (the precursor to the National Highway Traffic Safety Administration) began to develop its first safety standards regulating roof strength to ensure vehicles could withstand pressure on their roofs when involved in a rollover accident. The automobile industry lobbied the agency to significantly weaken the new roof crush test. They were motivated by the fact that they knew the roof strength of their cars was already a major safety issue. In the case of General Motors, five out of six car models failed their internal crash tests, a fact the manufacturer covered up for more than 30 years.

Manufacturers opposed increasing roof strength standards for the next three decades, not only because they knew many current cars would fail crash tests, but also because they did not want the added cost of stronger roofs in future productions. Meanwhile, the death toll from rollovers reached an estimated 7,000 per year.[33]

For Shipler, General Motors' refusal to accept responsibility meant she and her young son were forced to live on $800 a month in Social Security and food stamps, while her medical bills accumulated into the millions. In 2006, nine years after her

Penny Shipler

accident, a court awarded her $18.6 million, one of the largest court judgments linking vehicle roof strength to severe injuries in rollovers.

NHTSA finally took action in 2012 when it implemented a rule vastly improving roof strength requirements for cars sold in the U.S. As Shipler herself said, "I hope my case will be a reason for GM to improve the roofs of these vehicles so what happened to me doesn't continue to happen."

Tires

On a beautiful Saturday in March 2000, Donna Bailey, a 43-year-old mother of two, traveled with two friends to a climbing expedition in Texas in a Ford Explorer equipped with Firestone tires. One of the tires suddenly separated, and the Explorer skidded and rolled. Despite wearing her seatbelt, Bailey was left paralyzed from the neck down.[34]

Firestone knew as early as 1997 that there were serious problems with its tires. Vehicle owners began sending complaints of tire failures at a rate 100 times greater than normal.

Defective Firestone tires on Ford Explorers took the lives of at least 271 people and seriously injured many more before the companies issued the largest tire recall in history. Internal company documents would later show that the two corporations had known of the deadly tire separation and associated rollover problems for years. Firestone knew as early as 1997 that there were serious problems with its tires. Vehicle owners began sending complaints of tire failures at a rate 100 times greater than normal. Firestone employees would later state that they punctured bubbles in tires to conceal flaws and that inspection of finished tires was nonexistent.

After a series of lawsuits highlighted the issue, the National Highway Traffic Safety Administration (NHTSA) opened an investigation into the tread separations. In August 2000, Firestone recalled 6.5 million tires.

The Ford/Firestone case is only the latest and most recognizable instance of a manufacturer knowingly producing defective tires. Michelin, Cooper and other manufacturers have manufactured unsafe tires and taken corrective actions as a result of litigation. Even Firestone had tried to get away with production of defective tires before its most recent troubles. In 1971, the company debuted the Firestone 500 radial, which was prone to suffer tread separation at high speeds. By 1973, Firestone engineers had identified the problem and the dangers associated with it; however, the company continued to sell what would turn out to be nearly 24 million tires, insisting that there were no defects. At one point Firestone recorded that over 10 percent of tires were suffering separation. Litigation on behalf of victims injured after tire separations began

to mount. By 1978, the company was forced to admit it faced more than 250 lawsuits, and the company agreed to recall the tires.[35]

Electronic Stability Control

Electronic stability control (ESC) was a safety innovation prompted in part by litigation surrounding the increasingly popular, but inherently unstable SUVs.[36] As SUVs became popular, their lack of stability became more apparent, and their design made them more prone to roll over than regular cars.

"Our rollover rate is three times higher than the Chevy S-10 Blazer... The data put us in a bad light... We think, however, that we have clouded their minds."

Certain models, such as the Ford Bronco II and its successor, the Explorer, were particularly unstable. In 1989, one year before the release of the Explorer, Ford executives tried to stop a *Consumer Reports* article critical of the Bronco II. Jerry Sloane of Ford's public affairs office wrote in one internal memo, "We think going in we were in deep trouble regarding our rollover rates... Our rollover rate is three times higher than the Chevy S-10 Blazer... [T]he [Fatal Accident Reporting Service (FARS)] data put us in a bad light... We think, however, that we have clouded their minds."[37]

One result of the Ford/Firestone and other SUV litigation was an increased emphasis on the development of electronic stability control. ESC incorporates yaw (rotation around the vertical axis) control into anti-lock braking systems. When a driver loses control, ESC applies brakes to each wheel individually to correct skids and bring the car back under control.[38]

Door Latches

In 2001, Deborah Seliner was driving her 1997 Ford pickup along a Texas highway when a rear tire blew, forcing her off the road and causing the truck to rollover. Seliner was wearing a seat belt but was ejected from the truck because the driver's side door came open. She was paralyzed from the chest down and confined to a wheelchair for life.[39]

Ford's problem with doors unexpectedly opening had been happening since at least 1997. By 2000, Ford had traced the problem to defective springs in its "paddle-style" door handles, affecting more than four million vehicles. On March 6, 2000, Ford's own engineers recommended the cars be recalled and the door latches redesigned. The recommendation was passed onto Ford's Field Review Committee, the executive body that ordered recalls. The committee agreed with the engineers and plans for a recall were made. Then a few days later, the recall was cancelled. Instead, Ford found an alternative and little-used crash test that it knew the handles would likely pass.[40]

Inevitably, people like Deborah Seliner were injured when the doors opened during accidents. As a result of litigation on behalf of injured people, car manufacturers began using recessed door handles that were less likely to cause an unintended door opening.[41]

Ford's strategy mirrored that of other automobile manufacturers in the past. Between 1978 and 1987, GM produced cars with so-called "Type 3" door handles. GM's own engineers recommended recalling the cars to fix the doors, but with 30 million affected cars on the road and an estimated cost of nearly $1 billion, GM decided to leave them as they were and instead secretly settle cases for as long as possible until the statute of limitations ran out. Hundreds of people were killed, until a $150 million verdict in Georgia in 1996 highlighted the problem to the public and regulators.[42]

Sudden Acceleration

In August 2009, 911 operators near San Diego, California, received a desperate plea for help from a passenger in a car with a stuck acceleration pedal that was unable to stop. The car, driven by 45-year-old off-duty police officer Mark Saylor, weaved along the freeway at a speed of up to 120 miles per hour, before finally flying off the road and bursting into flames. Saylor, his wife Cleofe, their 13-year-old daughter Mahala, and Cleofe Saylor's brother Chris Lastrella, all died instantly.[43]

The crash brought public attention to Toyota's sudden acceleration problem. Initially the company claimed that floor mats and driver error were to blame for the rash of fatalities, injuries and complaints, while hiding a flawed gas pedal design that they knew caused problems. Eventually, Toyota recalled more than 9 million cars worldwide. Five years after the Saylors' deaths Toyota agreed to a $1.2 billion settlement with the Justice Department to close a criminal probe into the automaker's handling of the problem. In ratifying the deal, Judge William H. Pauley III scolded Toyota executives, saying, "corporate fraud can kill."[44]

"Corporate fraud can kill."

As part of the agreement with prosecutors, Toyota conceded that it had engaged in "unlawful activities" and misled consumers, regulators, and even Congress about the problem, and avoided recalling vehicles it knew were affected. Litigation eventually revealed documentation of one unnamed Toyota employee declaring in 2010, after a meeting between Toyota and regulators, "Idiots! Someone will go to jail if lies are repeatedly told. I cannot support this."[45]

Conclusion

Some would say that automobile safety is the sole responsibility of federal regulators. Others say it should be left to the free market to protect consumers. In fact, neither regulation nor the market can succeed in protecting Americans alone. The slow-moving nature and political vulnerability of federal regulations, coupled with the revolving door relationship between the car manufacturers and the agencies, leaves regulation as an incomplete protection. The market, meanwhile, can only dictate safer vehicles if the consumer's desire for a safe car is matched by honest information about their relative safety merits, which is not easy to come by when manufacturers often cover up their vehicle's defects.

Rather, in order for our families to be safe, we must have a three-pronged approach to protection with corporations that act responsibly and prioritize safety, an effective regulatory system, and access to the civil justice system. Since the 1960s, the civil justice system has worked to make Americans safer. Design defect litigation has enforced safety standards, revealed previously concealed defects and regulatory weaknesses, and deterred manufacturers from cutting corners on safety for the sake of greater profits. Accountability through the civil justice system incentivizes corporations to prioritize safety from the start. When accountability is eliminated and access to justice is denied, profits are often placed over people.

While new laws or regulations may take months or years to enact, highlighting the problem in the courtroom immediately puts executives on notice that the American people will not accept such negligent behavior. Time and again, the civil justice system has protected Americans' safety when corporations and regulators have not.

Appendix - Timeline of Key Automobile Litigation

***MacPherson v. Buick Motor Co.*, 217 N.Y. 382, 111 N.E. 1050, N.Y. 1916.**
Donald MacPherson was injured when the wooden spokes of one of the wheels on his 1920 Buick Runabout crumbled, causing the car to collapse and ejecting him. Judge Benjamin Cardozo, in a ruling that has often been referred to as the origin of product liability, stated, "If the nature of a thing is such that it is reasonably certain to place life and limb in peril when negligently made, it is then a thing of danger. Its nature gives warning of the consequence to be expected. If to the element of danger there is added knowledge that the thing will be used by persons other than the purchaser, and used without new tests, then, irrespective of contract, the manufacturer of this thing of danger is under a duty to make it carefully."

***Larsen v. General Motors Corp.*, 391 F.2d 495, 8th Cir., 1968.**
David Larsen was driving a Chevy Corvair when he was involved in a head-on collision that rammed the Corvair's steering mechanism into his head. General Motors claimed it had no duty to design an automobile that would protect the occupant in an accident. In what would become a landmark decision, the court disagreed and thus sent a message that car manufacturers had to change their ways.

***Dyson v. General Motors Corp.*, 298 F.Supp. 1064, D.C.Pa., 1969.**
When a 1965 Buick Elektra rolled over, the right side of its roof collapsed, severely injuring an occupant. The court held, "[I]t is the obligation of an automobile manufacturer to provide more than merely a movable platform capable of transporting passengers from one point to another. The passengers must be provided a reasonably safe container within which to make the journey. The roof is a part of such container...."

***Fox v. Ford Motor Co.*, 575 F.2d 774, C.A.Wyo., 1978.**
A Wyoming court held Ford liable for the deaths of two women riding in the back of a Thunderbird during a low-speed, head-on collision. The two passengers in the front seats survived. The two women in the rear seats, wives of the men in front, both died. A court found that the rear seats were improperly designed: the front seats were not cushioned in anticipation of a rear occupant striking them and the seat belts were not designed to prevent passengers jackknifing forward.

***Grimshaw v. Ford Motor Co.*, 119 Cal.App.3d 757, 174 Cal.Rptr. 348, Cal.App. 4 Dist., 1981.**

Punitive damages were awarded against Ford after a court found that the company knew its Ford Pinto was susceptible to deadly fires and explosions because of a defective design that left the gas tank exposed in rear-end collisions.

***Dawson v. Chrysler Corp.*, 630 F.2d 950, 3d Cir., 1980, cert. denied, 450 U.S. 959, 1981.**
Chrysler was held liable after a police officer was rendered quadriplegic when his car hit a steel pole side-on and was ripped in half. The court held that the Chrysler's divided frame design was defective.

***Leichtamer v. American Motors Corp.*, 67 Ohio St.2d 456, 424 N.E.2d 568, Ohio, 1981.**
Punitive damages were awarded against American Motors Corp, after one of its Jeeps, marketed as suitable for off-road and hilly conditions, rolled over during a low-speed hill descent causing its roll bar to crush the occupants.

***Dorsey v. Honda Motor Co. Ltd.*, 655 F.2d 650, C.A.Fla., 1981.**
The first car sold in America by Honda was the diminutive AN 600. Honda marketed it as a low-price, economical car. Glen Dorsey purchased one in 1972. When involved in a low speed collision, Dorsey was seriously injured and left with a massive, permanent brain injury. At trial it was revealed that Honda knew the car was extremely vulnerable to collapsing upon impact, but had decided not to strengthen it for fear of reducing its economical performance.

***Hasson v. Ford Motor Co.*, 32 Cal.3d 388, 650 P.2d 1171, Cal.,1982.**
Ford's 1966 Lincoln Continental had defective brakes, a fact which the company covered up so as not to damage the Continental's "service-free" reputation. In 1970, 19-year-old James Hasson suffered serious injuries, including a fractured skull and extensive brain damage, when the brakes failed on his Continental. Ford fought the case for he next 12 years until eventually Hasson was granted compensation.

***Seliner v. Ford Motor Co.*, No. 2002-30454, Tex, Harris County Dist. Ct., 2004.**
In 2001, Deborah Seliner's 1997 Ford pickup blew a tire along a Texas highway and rolled over. Seliner was wearing a seat belt but was ejected from the truck because the driver's side door came open. Internal documents from this and other similar cases revealed that Ford was aware the door handles were defective and were prone to opening in accidents, but chose to cover up the problem. Seliner was paralyzed from the chest down and confined to a wheelchair for life.

***Shipler v. General Motors Corp.*, 271 Neb. 194, 710 N.W.2d 807, 2006.**
Penny Shipler, a 29-year-old single mother from Nebraska, was paralyzed after the roof of

the Chevy Blazer she was riding in collapsed during a rollover accident. In 2006, nine years after her accident, a court awarded her $18.6 million, one of the largest court judGMents linking vehicle roof-strength to severe injuries in rollovers. Shipler said of the verdict, "I hope my case will be a reason for GM to improve the roofs of these vehicles so what happened to me doesn't continue to happen."

***AlliedSignal, Inc. v. Moran*, 231 S.W.3d 16, Tex.App.-Corpus Christi, 2007.**
In 1996, Bart Moran's 1997 Dodge Minivan was involved in a low speed rollover in Corpus Christi, Texas. Moran's seat belt unlatched and he was thrown from the van, suffering a broken neck and massive head injuries. He died the next day, leaving behind a wife and 8-month-old daughter. The court heard that the minivan's "Gen 3" belt latch was defective and could unlatch in an accident, a fact that Chrylser's engineers had already identified.

***Melton v. General Motors et al.*, No. 2011-A-2652, Cobb County State Ct., 2011.**
Brooke Melton was killed when her 2005 Chevy Cobalt crashed after the ignition switch slipped from the "on" to the "accessory" position while she was driving, leaving her without power steering, brakes, or deployable airbags. An investigation by her family's attorney and an engineer not only uncovered a defectively designed ignition switch, but a massive, decade-long cover-up of the problem by General Motors. The lawsuit led to the recall of millions of vehicles with similar ignition switch problems.

Endnotes

1 Harold A. Katz, *Liability of Automobile Manufacturers for Unsafe Design of Passenger Cars*, Harvard Law Review, March 1956.

2 *Shumard v. General Motors Corporation*, the United States District Court for the Southern District of Ohio, 270 F.Supp. 311 (1967).

3 Ralph Nader, *Unsafe at any speed*, 1965.

4 Steven L. Holley, *The Relationship Between Federal Standards and Litigation in the Control of Automobile Design*, at 807, New York University Law Review, October 1982.

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FRED UPTON, MICHIGAN
CHAIRMAN

HENRY A. WAXMAN, CALIFORNIA
RANKING MEMBER

ONE HUNDRED THIRTEENTH CONGRESS

Congress of the United States
House of Representatives
COMMITTEE ON ENERGY AND COMMERCE
2125 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515–6115
Majority (202) 225–2927
Minority (202) 225–3641

July 14, 2014

Ms. Mary T. Barra
Chief Executive Officer
General Motors Company
P.O. Box 33170
Detroit, MI 48232-5170

Dear Ms. Barra:

Thank you for appearing before the Subcommittee on Oversight and Investigations on Wednesday, June 18, 2014, to testify at the hearing entitled "The GM Ignition Switch Recall: Investigation Update."

Pursuant to the Rules of the Committee on Energy and Commerce, the hearing record remains open for ten business days to permit Members to submit additional questions for the record, which are attached. The format of your responses to these questions should be as follows: (1) the name of the Member whose question you are addressing, (2) the complete text of the question you are addressing in bold, and (3) your answer to that question in plain text.

Also attached are Member requests made during the hearing. The format of your responses to these requests should follow the same format as your responses to the additional questions for the record.

To facilitate the printing of the hearing record, please respond to these questions and requests with a transmittal letter by the close of business on Monday, July 28, 2014. Your responses should be mailed to Brittany Havens, Legislative Clerk, Committee on Energy and Commerce, 2125 Rayburn House Office Building, Washington, D.C. 20515 and e-mailed in Word format to brittany.havens@mail.house.gov.

Thank you again for your time and effort preparing and delivering testimony before the Subcommittee.

Sincerely,

Tim Murphy
Chairman
Subcommittee on Oversight and Investigations

cc: Diana DeGette, Ranking Member, Subcommittee on Oversight and Investigations

Attachments

Lee R. Godown
Vice President
Global Government Relations

General Motors Company
25 Massachusetts Avenue, NW
Suite 400
Washington, DC 20001
Phone: 202 775 5033

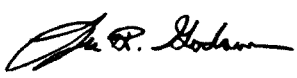
September 3, 2014

Brittany Havens
Legislative Clerk
Committee on Energy & Commerce
2125 Rayburn House Office Building
Washington, D.C. 20515

Dear Ms. Havens:

As General Motors Vice President of Global Government Relations, I write to you on behalf of GM in response to the July 14, 2014, Member requests to GM's CEO Mary T. Barra. Because no single person at GM was involved in all of the events and issues covered by the questions, the attached answers reflect input from different personnel and sources within GM. GM appreciates the opportunity to address the Members' questions and to cooperate with the Committee's inquiry.

Sincerely,



Committee on Energy and Commerce
Subcommittee on Oversight and Investigations
U.S. House of Representatives
"The GM Ignition Switch Recall: Investigation Update"

GM's Responses to Additional Questions for the Record
and Member Requests for the Record

Attachment I - Additional Questions for the Record

The Honorable Tim Murphy

1. **What is an appropriate black box design change?**

   RESPONSE:

   GM is not certain of the meaning of this question. Design changes are not normally referred to as "black box design changes." For purposes of this response and Questions 2 – 6 below, GM assumes that "black box" refers to a part (*e.g.*, an assembly, electrical device, mechanical device, or control module) for which design responsibility belongs to the supplier. Black box requirements established by an OEM such as GM are generally limited to those characteristics/items required for customer interface connections and verification of functional requirements, and the supplier would then be responsible for the specific design to meet those requirements.

   Any design change that affects the fit, form or function (electrical, mechanical or otherwise) must be approved by GM, whether as part of a black box part or not.

2. **Do individual engineers have responsibility for making this determination?**

   RESPONSE:

   GM does not understand this question as it is phrased. As noted above, changes are not referred to as "black box design changes"; nor does GM understand what "determination" is referred to here.

3. **How does GM track black box design changes?**

   RESPONSE:

   GM is not certain of the meaning of this question. Design changes are not normally referred to as "black box design changes." The usual process for tracking design changes – whether or not associated with a black box part – is that once a part is released for preproduction applications, changes are tracked in the Engineering Work Order (EWO) system, known as E^2.

4. **Does a design change being "Black Box" change how it was categorized or documented – or whether a new part number should have been assigned?**

   RESPONSE:

   GM is uncertain as to the meaning and scope of this question. Design changes are not normally referred to as "black box design changes." The change process for black box parts are normally the same as for other parts.

5. **Is there a way for investigators to identify these changes in GM's system when they are doing a root cause analysis?**

   RESPONSE:

   GM is uncertain as to the meaning of this question, but, in response, notes that investigators have the ability to query EWOs on the E^2 system.

6. **Do investigators conducting a root cause analysis know where to look for a black box change?**

   a. **Was this the practice at the time of the Cobalt investigation?**

      RESPONSE:

      See Response to Questions 1 – 5 above. The practice is that changes are captured in the E^2 database which the investigators can query. This process was in place at the time of the Cobalt investigation.

7. **It is the Committee's understanding that Delphi was a self-certified supplier. What does this mean? How do self-certified suppliers differ from other suppliers?**

   RESPONSE:

   In certain circumstances, GM can designate a supplier as "self-certified" with respect to the Production Part Approval Process (PPAP) for a given part. In that event, the supplier is permitted to submit documentation for PPAP and achieve final approval status without any further GM sign-off. The supplier is still required to follow the standard PPAP process. It is likely that a GM supplier quality engineer would still be engaged with the supplier throughout the Advanced Product Quality Planning process (APQP) and PPAP, as PPAP is the final step of APQP before approving a part, even though a GM representative would not perform the final PPAP sign-off.

8. Does it have any influence on the PPAP approval process?

RESPONSE:

See Response to Question No. 7, above. Where a supplier is self-certified for the Production Part Approval Process (PPAP), that supplier is required to comply with all aspects of the PPAP process including the requirements for final approval of the specific part at issue.

9. In GM's opinion, does Delphi have any responsibility for what happened here?

RESPONSE:

GM does not have access to complete information regarding all aspects of Delphi's actions and knowledge related to the ignition switch design and manufacturing, but, as a general matter, integration of parts is the responsibility of GM as the OEM. GM cannot at this time, however, assess what legal responsibility Delphi may have.

10. Following the March 2007 meeting with NHTSA, Product Investigations reviewed claims relating to non-deployment in the Cobalt and Ion. Within a month, Product Investigations evaluated the issue at an Investigation Status Review meeting and subsequently ended their investigation.

a. Why did Product Investigations not pursue this matter at the time?

RESPONSE:

Our understanding is that GM personnel had inconsistent recollections as to whether the Product Investigations group ("PI") became involved in the Cobalt airbag non-deployment issues at this stage. Brian Everest reported that a PI engineer named Eric Buddrius examined the Cobalt airbag matter in April 2007. Documents in Mr. Buddrius's files indicate he was working on the issue, and a May 4, 2007 Investigation Status Review ("ISR") Presentation Planning Worksheet states that Mr. Buddrius was scheduled to present on an issue described as "Cobalt/Ion Airbag (NHTSA discussion item)," but we also understand that Mr. Buddrius had no recollection of involvement.

11. After the Product Investigators declined to investigate, the responsibility for tracking these claims was assigned to the Field Performance Assessment division.

a. Why was this assigned to FPA and who made this decision?

RESPONSE:

Our understanding is that it is not clear that Product Investigators declined to investigate. According to Brian Everest, following GM's March 2007 meeting with NHTSA, Keith Schultz directed Mr. Everest and Mr. Sprague, both engineers in FPA, to compile information on Cobalt and Ion NISMs and lawsuits, and asked Dwayne Davidson to pull TREAD data for similar incidents. At some point thereafter, GM understands that Mr. Sprague began compiling a spreadsheet listing various Cobalt airbag non-deployment incidents he had reviewed. Mr. Sprague stated that no one specifically asked him to track Cobalt non-deployments.

b. Why were they asked only to track Cobalt non-deployments? Why did they not track Ions even-though NHTSA raised concern about that model and Product Investigations included it in their review?

RESPONSE:

As noted above, our understanding is that the extent to which Product Investigations reviewed the issue at that time is not clear. We understand that GM personnel have stated that NHTSA had not made a formal request of GM and did not ask GM to report back to it about the non-deployment issue. It appears that Mr. Sprague initially compiled information relating to both Cobalts and Ions.

c. Is this a typical assignment for the FPA group? If so, please provide similar examples of where FPA has been tasked with tracking specific claims after Product Investigations declined to pursue a particular issue.

RESPONSE:

We are not aware of evidence that Product Investigations "declined" to investigate the non-deployments.

12. Since the announcement of the GM ignition switch recall, your company and others have issued dozens of recalls for everything from windshield wipers to airbags and fire-risks. GM alone has announced over 40 recalls in this calendar year. This attention to addressing safety issues, no matter how small, is refreshing however; I am interested in your perspective on how this flood affects customer response or public attention to safety recalls, in general.

a. **Based on your experience, what is the average return rate for vehicles subject to a recall?**

RESPONSE:

Return rates can vary. The following table is based on a review of NHTSA completion reporting of Safety and Non-Compliance recalls in recent years that have completed 6 quarters of reporting. In the table, "Composite Completion" is calculated by summing all VIN's from all recalls that have been completed in the reporting period divided by all VIN's that are subject to the recall. "Average Recall Completion" is the average of the individual recall completion rates. Please note that the data for 2013 includes only 7 of 24 recalls (*i.e.*, the recalls that have completed 6 quarters of reporting).

RECALL YEAR	Composite Completion	Average Recall Completion
2010	76%	79%
2011	93%	90%
2012	81%	86%
2013	95%	97%
2010 to 2013	**79%**	**86%**

b. **At some point, does the volume of recalls diminish their effectiveness, in terms of customer returns?**

RESPONSE:

GM sends out required communications regarding recalls, including customer-specific communications for each vehicle involved in a recall. An individual customer receives recall information only for his or her specific vehicle, not all recalls that GM performs. It is too early to determine the impact of the 2014 recall volume on responsiveness, but GM will monitor the completion rates for the recalls announced this year. This question raises a potential industry-wide issue. As previously discussed, GM believes that a national VIN database may improve the effectiveness of recalls.

c. How do we strike a balance between addressing safety concerns without diminishing the effectiveness of the recall process as a whole?

RESPONSE:

GM is committed to addressing safety concerns without regard to the number of recalls required in any given time period. If there is evidence of diminishing effectiveness of recalls, GM would be pleased to work with the Committee and with NHTSA to address possible solutions.

13. As part of the consent order with NHTSA, GM agreed to take a number of steps, including monthly meetings with NHTSA about the safety plans it is putting in place to address the failures of the ignition switch recall.

a. Have those meetings begun?

RESPONSE:

Yes, regular face-to-face meetings have been occurring generally on a weekly basis since the early April timeframe. In addition, regular communications in the form of email and phone conversations generally take place multiple times per week. These meetings and discussions generally involve representatives from the GM Global Vehicle Safety organization, GM Public Policy organization and NHTSA Office of Defects Investigation organization, along with some additional subject matter experts as appropriate to specific topics. These regular meetings address the specific requirements of the Consent Order.

b. What information is GM sharing about its cars that it was not sharing before?

RESPONSE:

In addition to the information GM shared previously, GM is sharing details of all OIR (Open Investigation Reviews) on a monthly basis, one page summaries of all Safety and Field Action Decision Authority recall decisions in advance of the required form 573, additional details in the quarterly Death and Injury (D&I) reporting associated with TREAD / EWR, advance copies of videos utilized to improve recall repair completion, details of our new Speak Up for Safety program and our new Safety Field Investigation process for emerging issues, and bi-weekly updates for service part availability and vehicle repair completion for the Cobalt / associated vehicles ignition switch related recall. We have also shared our ideas and suggestions for creative communication techniques to help improve recall completion, utilizing new tools and approaches to connect with traditionally difficult-to-reach customers.

c. **Based on this experience and the lessons learned from this recall, how can GM and other manufacturers improve their interactions with NHTSA?**

RESPONSE:

Frequent and clear communication with NHTSA is critical in understanding recall issues, at the staff and leadership level for both the manufacturer and NHTSA. Open sharing of data and technical details is critical for understanding of, and agreement on, engineering issues, remedies and safety concerns.

The Honorable Morgan Griffith

1. **Does General Motors intend to structure its Victims' Compensation fund to include compensation for victims in instances where the vehicle's air bag did not deploy, and also in the cases when the vehicle stalled while being driven, which is a proximate cause of accidents such as the accident described in pages 115-118 of the Valukas Report?**

RESPONSE:

If the claimant was a driver, a passenger, a pedestrian, or the occupant of another vehicle, in an accident in one of the eligible vehicles (as indicated in the Protocol), and the ignition switch defect is determined by Mr. Feinberg to be the proximate cause of the death or physical injury, the claimant will be eligible for compensation. If the air bag or seatbelt pretensioners deployed in any form of accident, then the claimant will be ineligible.

2. **Does General Motors intend to pursue protection in bankruptcy court under the theory that these problems were under "the old GM" in order to limit the pool of claimants under GM's Victims' Compensation Fund?**

RESPONSE:

No, there will be no bankruptcy protection applied under the Feinberg program – if a claimant is eligible under the Protocol, regardless of when the claim arose, s/he may be eligible for compensation under the Program.

The Honorable Lee Terry

1. **Ms. Barra, you have stated on numerous occasions in the press over the past several months that the new GM is committed to a "New Industry Standard for Safety."**

   a. **Are you aware of any contractual restriction(s) that would prohibit essential OEM data that has significant impacts on safety from not being made available, in an integral format, to the professional automotive industry?**

   RESPONSE:

   GM is uncertain as to the meaning and scope of this question. For purposes of responding, GM assumes that "OEM data" refers to data owned and controlled by GM and that "professional automotive industry" means other OEMs and GM's suppliers. Given the potential breadth of the question it is difficult to provide a precise answer; however, as a general matter, GM is not aware of contractual restrictions that would prohibit GM from sharing essential data owned or controlled by GM that has significant impacts on safety with other OEMs or GM's suppliers. In light of the ambiguity of the question, GM cannot state with certainty that there are no contractual restrictions that might be responsive to this question.

   b. **Do you believe that sharing this information would increase safety?**

   RESPONSE:

   Please see response to part (a) of this question. GM believes that sharing of information that has significant impacts on safety could increase safety, and that at the same time confidential business information, intellectual property and other proprietary information should be appropriately protected.

Attachment 2-Member Requests for the Record

During the hearing, Members asked you to provide additional information for the record, and you indicated that you would provide that information. For your convenience, descriptions of the requested information are provided below.

The Honorable Diana DeGette

1. **During the hearing, I asked that you supplement your answer to what you are doing, not just to change the structure and put these safety programs together, but to change the culture of the company so that the company rewards people reporting problems. Please provide those specifics to the committee.**

   RESPONSE:

   Constant, consistent communications with employees, along with strong tone at the top by leadership, are an integral piece of changing the culture. This has been, and continues to be, a priority at GM.

   In May, GM launched a new, global Speak Up for Safety program and a new Global Safety organization. We employ various means to remind employees about the importance of speaking up for safety, and include regular leadership messages on our intranet encouraging employees to act with integrity and speak up when needed. In June, we conducted a 24-hour online chat in which any employee could chat directly with our top senior leaders, including Mary Barra, about any topic they wished.

   Our recognition of Speak Up for Safety submissions occurs on a quarterly basis and is managed by the same team that oversees our Speak Up for Safety program. We have developed a variety of recognition methods. These forms of recognition include thank-you emails or phone calls from senior and direct leaders, recognition in local department meetings from area leaders, intranet articles featuring employees who provided submissions, meetings or lunch with Mary Barra, and a semi-annual award (such as a plaque) for the most critical submissions.

   When we rolled out the new Speak up for Safety program, employees were not aware that they may be recognized, or even how that might occur. This approach was important for us, because in changing the culture, we wanted employees to speak up regardless of what they will personally gain from doing so. Based on the submissions we have received so far, we are confident we were successful in that goal.

2. **Will the people who receive payment through Mr. Feinberg's compensation program be required to release their legal claims?**

RESPONSE:

Yes.

The Honorable Kathy Castor

1. **The Valukas Report refers to the Board's commitment to improving the quality of GM's vehicles through a bonus plan for corporate officers and employees at the executive, director, and supervisor levels. Part of whether the calculation for whether a bonus would be payable was improvement in the quality of GM's vehicles. Did you receive bonuses through this bonus program during the last decade while the ignition switch issues were ongoing with GM? If so, how many years did you receive those bonuses?**

RESPONSE:

During the past decade, General Motors Corporation and General Motors Company had both short-term and long-term incentive compensation plans. Payouts for each of the plans were based on various factors. For each year, quality measures comprised a portion of the metrics for only the short-term incentive compensation plan. For the calendar years 2003-2013, Ms. Barra received a short-term incentive compensation award in four of those calendar years – 2003, 2004, 2006, and 2007. During the years in which GM was subject to TARP compensation restrictions, Ms. Barra was not eligible to receive a short-term incentive compensation award.

FRED UPTON, MICHIGAN
CHAIRMAN

HENRY A. WAXMAN, CALIFORNIA
RANKING MEMBER

ONE HUNDRED THIRTEENTH CONGRESS

Congress of the United States
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COMMITTEE ON ENERGY AND COMMERCE
2125 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515–6115
Majority (202) 225-2927
Minority (202) 225-3641

July 14, 2014

Mr. Anton R. Valukas
Jenner & Block
353 N. Clark Street
Chicago, IL 60654

Dear Mr. Valukas:

Thank you for appearing before the Subcommittee on Oversight and Investigations on Wednesday, June 18, 2014, to testify at the hearing entitled "The GM Ignition Switch Recall: Investigation Update."

Pursuant to the Rules of the Committee on Energy and Commerce, the hearing record remains open for ten business days to permit Members to submit additional questions for the record, which are attached. The format of your responses to these questions should be as follows: (1) the name of the Member whose question you are addressing, (2) the complete text of the question you are addressing in bold, and (3) your answer to that question in plain text.

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To facilitate the printing of the hearing record, please respond to these questions and requests with a transmittal letter by the close of business on Monday, July 28, 2014. Your responses should be mailed to Brittany Havens, Legislative Clerk, Committee on Energy and Commerce, 2125 Rayburn House Office Building, Washington, D.C. 20515 and e-mailed in Word format to brittany.havens@mail.house.gov.

Thank you again for your time and effort preparing and delivering testimony before the Subcommittee.

Sincerely,

Tim Murphy
Chairman
Subcommittee on Oversight and Investigations

cc: Diana DeGette, Ranking Member, Subcommittee on Oversight and Investigations

Attachments

1099 NEW YORK AVENUE NW SUITE 900 WASHINGTON, DC 20001-4412

JENNER&BLOCK LLP

Jerome L. Epstein
Tel 202 639-6062
Fax 202 661-4837
jepstein@jenner.com

August 18, 2014

VIA FIRST CLASS MAIL AND EMAIL

Ms. Brittany Havens
Legislative Clerk
U.S. House Committee on Energy and Commerce
2125 Rayburn House Office Building
Washington, DC 20515

Re: June 18, 2014 Hearing

Dear Ms. Havens,

In response to your letter dated July 14, 2014, and your agreement to extend the deadline to August 18, 2014, please see the attached response by Anton Valukas to the Member questions.

Sincerely,

Jerome L. Epstein

Attachment

Committee On Energy and Commerce
U.S. House of Representatives
"The GM Ignition Switch Recall: Investigation Update"

Response of Anton Valukas to Questions for the Record

August 18, 2014

The Honorable Tim Murphy

1. **In Appendix C of your report (page 296) you note that in 2006, GM employed Validation Engineers with component level responsibilities who were required to sign-off on form 3660 approvals.**

    a. **In 2006, what was the responsibility of a Validation Engineer?**

    RESPONSE:

    We did not investigate all responsibilities of validation engineers in all contexts in the 2006 time period. Generally speaking, our understanding is that in that time frame, GM employed validation engineers with varying scopes of responsibility, such as responsibility for individual vehicle components, systems in a vehicle, or a vehicle as a whole. As a general matter, validation engineers were responsible for overseeing the validation process and approving the validation test results.

2. **Under Tabs 37 and 38 of the Committee's document binder, you will note two copies of the April 26, 2006 Form 3660 - one is a draft version supplied by Delphi which includes a name on the line for Validation Engineer. The other is a copy of the version signed by Mr. Degiorgio but there is no longer a name listed under the Validation Engineer - did you investigate this discrepancy?**

    a. **Based on your investigation, did a GM Validation Engineer ever sign this form?**

        i. **If not, did you investigate why a Validation Engineer never signed this form?**

    b. **At the time, could a part be changed without the approval of a Validation Engineer and if so, under what circumstances?**

    c. **Who was responsible for providing the form to the validation engineer or ensuring it was reviewed by the validation engineer?**

RESPONSE:

We investigated the issue concerning the two copies of the Form 3660 referred to above. We did not uncover any evidence that a GM validation engineer ever signed this form. The only executed copy of the relevant Form 3660 our investigation uncovered is the one the Committee has seen, which, as the Committee notes, does not list a validation engineer.

By 2006, GM employed validation engineers with component-level responsibilities who were required to sign off on Form 3660 approvals. We understand, however, that in 2006 it was possible for a part to be changed without the approval of a validation engineer.

With respect to Question 2(c), it is not clear who had that responsibility in that time frame.

3. **In 2006, what was the responsibility of a Supply Quality Engineer?**

RESPONSE:

We did not investigate all responsibilities of supply quality engineers in all contexts in the 2006 time period. Generally speaking, our understanding is that in that time frame, supply quality engineers were responsible for reviewing part approval documentation and loading the information from the approval documentation into GM's Global Quality Tracking System.

4. **According to the PPAP Report pulled from the GM Global Quality Tracking System - Tab 44 of the Committee document binder - the changes approved in April 2006 were loaded into the GM system at the beginning of June 2006.**

    a. **Who is responsible for loading this information into the Global Quality Tracking System?**

    RESPONSE:

    Our investigation revealed that the April 26, 2006 Form 3660 was loaded into GM's GQTS database on June 1, 2006 by a contractor/supplier with ACS named Samuel Jetti.

    b. **What review takes place before a change is loaded in the system? Who is responsible for that review?**

    RESPONSE:

    We did not investigate all review processes associated with loading such forms in all contexts, but generally speaking it is our understanding that in that time frame supply quality engineers would typically approve part approval documentation for completeness before uploading the information into the GQTS database.

c. **In the PPAP report, under the section Comment Detail, the line for "name, date from 3660" is filled in "NR"**

i. **What does "NR" stand for?**

RESPONSE:

We do not know.

d. **The Comment Detail section also includes a note that "Part approved per supplier submitted warrant and GM 3660"**

i. **What is the difference between the supplier warrant and a Form 3660?**

RESPONSE:

We understand that a Part Submission Warrant represents a supplier's confirmation that the parts being shipped comply with GM's requirements, while the Commodity Validation Sign Off, GM Form 3660, signifies GM's engineering approval for a part to ship.

5. **To this day, do you know <u>why</u> the switch was approved in 2002 if it did not meet the torque specification?**

RESPONSE:

Our investigation revealed that Raymond DeGiorgio approved the ignition switch for production in 2002. We found no evidence that any other GM employee knew in 2002 that the ignition switch approved for the Ion and Cobalt was below specification. DeGiorgio stated that he approved the ignition switch because no issues with the performance of the switch, once placed in the Ion, were brought to his attention during the Ion's development. He stated that he had no awareness that the below-specification torque would have an impact on the safe operation of the car. Additionally, DeGiorgio stated that given the switch's history of electrical failures, he was hesitant to make any changes that might jeopardize the functionality of the switch's electrical architecture. DeGiorgio stated that because he thought the ignition switch had performed properly and without incident during the numerous vehicle-level tests conducted on the prototype Ion, he approved production of the switch even though the switch's torque was below the specification.

6. **Did you investigate whether other factors, such as cost or timing, influenced the approval of the switch?**

RESPONSE:

Yes. Our investigation assessed the influence of other factors, including cost and timing, on the approval of the switch, but we concluded that other factors ultimately did not directly affect the

original approval of the switch. DeGiorgio did not cite timing, cost or other concerns for the approval of the below-specification ignition switch. His stated reasons for approving the switch are discussed above.

However, at least one communication shows that Delphi had raised timing and cost concerns with DeGiorgio in early 2002. In a February 18, 2002 email from Erik Mattson (Delphi) to DeGiorgio and several others at Delphi, Mattson stated that testing of the sample Delta switches revealed a torque level of 7.6 N-cm and 9.6 N-cm to rotate from run to accessory, well below GM's specifications of 15 N-cm (+/- 2 N-cm). Mattson noted: "Timing to make a change to the detent is around 7 weeks for PPAP switches…Cost is nominal, around $2000 to do the engineering and get parts. If we can find a supplier that is a cost savings more locally, I believe we can improve the timing. Also, we have planned on starting the 3x life portion of the new PV plan…by 3-15-02. This will be delayed significantly if we [change the detent]." DeGiorgio responded to Mattson, stating: "If increasing the detent ACCRY force by 5 N will destroy this switch than [sic.] do nothing…maintain present course. [U]nder no circumstances do we want to compromise the electrical performance of this switch nor PPAP status." Mattson replied that he was "not saying that it is impossible to change the detent forces, but it does have an impact on timing and our suppliers will not do it for free," later adding that Delphi could revise the ignition switch again, "but we all need to be aware of the impacts in timing, cost, and possible other issues that might be created when we are this close to PPAP." We did not find a response from DeGiorgio to Mattson's final email.

7. **In your testimony before the Committee, you stated "the issue of the non - deployment of the airbag was a matter of discussion in 2007 between NHTSA and General Motors. It was--we note--it was NHTSA saying we note that there are these non-deployments. GM's response to that was to begin an investigation with--under Mr. Sprague to see, you know, to keep a chart of what was taking place. There were no major further discussions about that issue until 2013."**

    a. **Are you aware of any discussions between GM and NHTSA in 2013 regarding the ignition switch defect or air bag non-deployments in the vehicles subject to the recall?**

    b. **Following the interaction between NHTSA and GM in 2007, are you aware of any discussions related to non-deployment or the ignition switch in vehicles subject to the recall prior to the announcement of the recall in 2014?**

RESPONSE:

I am not aware of discussions between GM and NHTSA in 2013 regarding the ignition switch defect or airbag nondeployment in the vehicles subject to the recall. As I previously stated, I intended to say "2014" in this response, not "2013."

Attachment 2-Member Requests for the Record

During the hearing, Members asked you to provide additional information for the record, and you indicated that you would provide that information. For your convenience, descriptions of the requested information are provided below.

The Honorable Renee Ellmers

1. **Please provide the name of the individual who gave the assignment to Mr. Sprague to keep track and document cases of non-deployment incidents.**

   RESPONSE:

   According to Brian Everest, following GM's March 2007 meeting with NHTSA, Keith Schultz, then Manager of Internal Investigations in GM's Product Investigations group, directed Mr. Everest and Mr. Sprague, both engineers in FPA, to compile information on Cobalt and Ion NISMs and lawsuits. At some point thereafter, Mr. Sprague began compiling a spreadsheet listing various Cobalt airbag non-deployment incidents he had reviewed. Mr. Sprague stated that no one specifically asked him to track Cobalt non-deployments.

1099 NEW YORK AVENUE NW SUITE 900 WASHINGTON, DC 20001-4412

JENNER&BLOCK LLP

Jerome L. Epstein
Tel 202 639-6062
Fax 202 661-4837
jepstein@jenner.com

July 11, 2014

VIA EMAIL

Ms. Brittany Havens
Legislative Clerk
U.S. House Committee on Energy and Commerce
2125 Rayburn House Office Building
Washington, DC

Dear Ms. Havens.

Thank you for your email on July 10, 2014 regarding the edits to Mr. Valukas' portion of the June 18 hearing transcript. With respect to the first proposed revision, referring to page 127 of the draft transcript, Mr. Valukas stated that two individuals were unaware of the issues of a switch "not deploying." Mr. Valukas wanted to clarify that the two individuals he referred to were unaware of the low torque issues concerning the switch.

With respect to the proposed revision on page 149, Mr. Valukas' reference to "the legal department" being at the meeting with NHTSA was intended to reflect that a representative of FPA (which supports the legal department) was at the meeting. Mr. Valukas' Report explains, on page 118, that Mr. Everest attended that meeting.

We believe these clarifications should be reflected in the record.

Sincerely,

Jerome L. Epstein