



Column: Delving into GM's crimes

Rena Steinzor and Robert Weissman 12:08 a.m. EDT October 5, 2015



f 11 CONNECT t 8 TWEEF in 2 LINKEDIN 6 COMMENT EMAIL MORE



[Copyrighted image suppressed]

Although federal prosecutors discovered multiple felonies when investigating General Motors Co. over faulty ignition switches, the Department of Justice just settled the case for \$900 million without charging the company with a crime or forcing GM to admit criminal culpability.

6

It's hard to imagine a rationale for accepting such a cost-of-doing-business payment to cover-up that quite literally killed people. Did the law tie the hands of prosecutors at the Department of Justice, preventing them from convicting GM?

In a word, no.

General Motors knew about a serious defect in its cars but concealed the hazard for years. Faulty ignition switches stalled its compact cars when drivers brushed their key fobs with a knee, turning off power steering, brakes and air bags. GM has admitted the switch defect caused 124 deaths though the true number is likely far higher.

The government has prosecuted other companies and their executives in cases with roughly similar circumstances in recent years, including cases involving sales of salmonella-tainted peanut butter and meningococcal fungal-infected steroids. To read the government's criminal charges in the GM case is to see that a case was ready to be filed, based on multiple violations of wire fraud laws and failure to notify the government about the defect.

GM engineers knew ignition switches on compact cars had insufficient torque ever before the cars first rolled off the line in 2001. The pin inside the switch was so fragile that it routinely reverted to the "accessory" position. Sudden stalls left agitated drivers to try to move the car across several lanes of traffic to the shoulder, praying that they did not cross the path of a truck or SUV.

8

In 2005, the engineer responsible for the switch became so concerned that he secretly changed the internal components of the switch but never told the multiple internal committees convened to palaver about the defect, leaving hundreds of thousands of vehicles with the defective part on the road.

in 2

Despite this blatant cover-up, the committees were receiving constant reports — some from their own employees — about the stalling problems. Over the course of several years, GM executives appointed three managers to act as "champions" to resolve the problem. They were supposed to work across stove-piped departments to resolve it. But GM's internal culture of groupthink allowed dozens of people to avoid accountability despite their clear collective knowledge that the switch wasn't working.

6

The agreement GM signed last week to avoid a criminal plea is known as a "deferred prosecution agreement" or DPA. In these deals — which started becoming commonplace for corporate wrongdoers about two decades ago and have been heavily used by the Obama administration — prosecutors agree not to criminally prosecute a company in exchange for little more than payment of a fine and a promise by the corporate wrongdoer not to violate the law in the future.

These deals don't punish corporate wrongdoers, don't deter future criminal activity, and don't deliver justice to the victims of the corporate malfeasance or to their families.

Instead, the deals exemplify a double standard, which punishes street criminals

TOP VIDEOS



Ex-foreign exchange student Oscar Cabrera 02:12



Pistons open practice 02:43



Miles Bridges picks Michigan State 02:24



Caretakers found for Brightmoor home 01:38

harshly, but ignores criminals in the suites whose actions cause far more death, injury, disease and economic loss than street crime.

The GM example shines a particularly glaring spotlight on this injustice, because in many cases individual drivers were criminally prosecuted for car crashes that actually were due to the hidden defects in GM cars.

Nine years ago, local police in Texas charged a young woman with reckless homicide when she ran her stalled Cobalt into a tree, killing her fiancée. Years later, a judge vacated the plea when GM was forced to admit the defect. A man in Minnesota served 2¹/₂ years in jail after three people died when his Toyota Camry suddenly accelerated along a highway ramp. He, too, was released when the company, which also signed a DPA, admitted to the defect that caused the accident.

In announcing the deal with GM, U.S. Attorney Preet Bharara complained about "gaps" in the law. Bharara is right that criminal provisions are missing from the auto safety laws, and no statute makes it a crime for corporations and their executives to conceal known product risks from the public and government regulators. Congress should act immediately to cure that problem, including by passage of U.S. Sen. Richard Blumenthal's Hide No Harm Act.

But the need for new criminal laws is no excuse for the shameful inaction by the Department of Justice. It had the power and authority to criminally prosecute GM for very serious crimes and, as is very clear in the statement of facts it filed with the DPA, it had the goods to go after GM and its executives. What the department didn't have was the will to enforce the law.

Rena Steinzor is a professor at the University of Maryland Carey Law School, a past president of the Center for Progressive Reform. Robert Weissman is the president of Public Citizen.



8



2



6



SPONSOR CONTENT:



Scarlett Johansson's Line 'Too Much' for Fox: CEO

Bloomberg



Meet The Man Who Is Disrupting a \$13 Billion Razor Industry

Dollar Shave Club



The 11 Worst Fast Food Restaurants In America

The Fiscal Times