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How GM Silenced Its Whistle-Blowers p48

IF ONLY

HOW A
GM LIFER
SPENT YEARS
TRYING
TO WARN THE
COMPANY,
AND
HOW IT
SILENCED HIM

48



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**BY TIM
HIGGINS
AND
NICK
SUMMERS**

In 2006 the wreck of a 2005 Cobalt killed two and injured one

T E N E D ...

It was close to 3 a.m. on June 6 when Courtland Kelley burst into his bedroom, startling his wife awake. General Motors, Kelley's employer for more than 30 years, had just released the results of an investigation into how a flawed ignition switch in the Chevrolet Cobalt could easily slip into the "off" position—cutting power, stalling the engine, and disabling airbags just when they're needed most. The part has been linked to at least 13 deaths and 54 crashes. GM Chief Executive Officer Mary Barra, summoned before Congress in April to answer for the crisis, repeatedly declined to answer lawmakers' questions before she had the company's inquest in hand. Now it was out, and Kelley had stayed up to read all 325 pages on a laptop on the back porch of his rural home about 90 miles northwest of Detroit.

The "Valukas Report," named for former U.S. Attorney Anton Valukas, who assembled it at GM's request from interviews with 230 witnesses and 41 million documents, blamed a culture of complacency for the more than decade-long delay before the company recalled millions of faulty vehicles. It described employees passing the buck and committees falling back on the "GM nod"—when everyone in a meeting agrees that something should happen, and no one actually does it. On page 93, a GM safety inspector named Steven Oakley is quoted telling investigators that he was too afraid to insist on safety concerns with the Cobalt after seeing his predecessor "pushed out of the job for doing just that." Reading the passage, Kelley felt like he'd been punched in the gut. The predecessor Oakley was talking about was Kelley.

Kelley had sued GM in 2003, alleging that the company had dragged its feet addressing dangers in its cars and trucks. Even though he lost, Kelley thought that by blowing the whistle he'd done the right thing and paved the way for other GMers to speak up. Now he saw that he'd had the

opposite impact: His loss, and the way his career had stalled afterward, taught others at the company to stay quiet. "He stood in the doorway of our bedroom with a stunned look on his face," Beth Kelley, his wife of 23 years, says. "Maybe we're just extremely naive, but we really thought that since this all happened, that something good would come out of it." Kelley declined to comment for this article, but his allegations are laid out in court records and depositions. A number of friends and family did speak for the record.

Kelley had been the head of a nationwide GM inspection program and then the quality manager for the Cobalt's predecessor, the Cavalier. He found flaws and reported them, over and over, and repeatedly found his colleagues' and supervisors' responses wanting. He thought they were more concerned with maintaining their bureaucracies and avoiding expensive recalls than with stopping the sale of dangerous cars. Eventually, Kelley threatened to take his concerns to the National Highway Traffic Safety Administration. Frustrated with the limited scope of a recall of sport-utility vehicles in 2002, he sued GM under a Michigan whistle-blower law. GM denied wrongdoing, and the case was dismissed on procedural grounds. Kelley's career went into hibernation; he was sent to work in another part of the company, and GM kept producing its cars.

Selling for around \$16,000, Cobalts were popular with teenagers. The first death linked to its switch came in July 2005, when a Maryland 16-year-old, Amber Marie Rose, crashed her red '05 into a tree. The airbag did not deploy. Although reports streamed into GM about moving stalls and disabled airbags for years, the company waited until Feb. 13, 2014, to issue a recall.

Now GM professes contrition, promises change, and has ousted 15 individuals for misconduct or incompetence. Announcing the Valukas findings to an audience of employees on June 5, Barra called the report "extremely thorough, brutally tough,

and deeply troubling." It describes a corporate bureaucracy fatally indifferent to mounting evidence its cars were killing people. "Group after group and committee after committee within GM that reviewed the issue failed to take action or acted too slowly," Valukas writes. "Although everyone had responsibility to fix the problem, nobody took responsibility."

As bad as that sounds, Kelley's story shows that the situation was worse—that GM's problems went beyond diffuse inaction. Management wasn't just distracted or confused; speaking up was actively discouraged, and workers saw that pointing out safety flaws could derail their careers. When a GM employee did blow the whistle, the nation's largest automaker shut him down.

Kelley is mild-mannered and 52, with a full head of white hair that makes him look older. His friends, who know him as Court, joke that they should make bracelets reading "WWCD?"—or "What would Court do?"—à la the popular Christian accessory. "He's just one of those people that you can trust what he says," his wife says. "I don't have any doubt in his decisions."

Kelley is third-generation GM. His father and grandfather worked for the company. A prized possession is a ring his grandfather was given commemorating his participation in the famed Sit-Down Strike of 1936-37. In his driveway is a black Pontiac Fiero sports car that Kelley and his teenage son, Ryan, fixed up.

In 1983, Kelley started at GM as a technician fresh out of community college. By 1988 he was working on what would become the company's Global Delivery Survey, an audit of GM cars at rail yards across the country—a spot check of vehicles on the last leg of their journey to dealerships. Originally meant to find minor noises and rattles, the program had begun to turn up more serious safety concerns. The creator of the effort, Bill McAleer, considered Kelley his protégé and someone who shared his alarm at the problems

THE MALFUNCTIONS

A 2005 Cobalt that crashed in Dentsville, Md.



Rescue personnel at the site of a Cobalt crash that killed two teenagers



THE FALLOUT

A rally at the GM stockholders' meeting in June



“I’VE DONE ALL I CAN. I WANTED MORE VEHICLES RECALLED. THEY SHOT ME DOWN”

they found over the next decade—such as tie rods in danger of falling off.

“Bill and I looked at each other in amazement,” Kelley later recalled in a deposition, “that that kind of thing was happening, where the bolts on the front suspension fell out as we drove over the track. I thought that GM alarm bells would go off.”

They didn’t. McAleer, who thought no one at GM was taking his criticisms seriously, was taken off the audit; he sued the company seeking whistle-blower protection. GM denied the allegations, and a judge dismissed the case. With McAleer gone, Kelley grew even more concerned about the problems he was seeing, he said in a June 2000 deposition from McAleer’s lawsuit. He indicated that the audit was picking up an average of two to three “significant safety defects” each month. In May of that year, Kelley told lawyers, the audit found three problems, including a vehicle in Flint, Mich., with its antilock brakes improperly attached and a vehicle in Lansing with a fuel leak. McAleer’s lawsuit claimed that

as much as 1 percent of all vehicles manufactured by GM during the 1999 model year could be defective, or more than 30,000 North American cars and trucks.

Kelley said he approached his direct supervisor, George Kingston, who in 2000 was director of quality for North American operations, about his growing concerns. “I would go to George and tell him this, but it didn’t seem to surprise him or provoke him to take new action,” Kelley said in his deposition. “He seemed to take it more seriously when I told him that I could no longer sit by and I may have to personally go to the federal government.” The response? “He cringed,” Kelley said, “and said that he would prefer that I don’t do that.” Kelley gave Kingston 60 days to act but in the end didn’t alert regulators. Kingston did not respond to a request for comment.

In September 2000, Kelley would later allege in court filings, Kingston instructed Kelley not to give McAleer, still a GM employee at the time, any data on serious defects that the audit program turned up. “Kingston indicated that he just returned from a meeting in which depositions taken in the McAleer litigation and questions being posed to GM by the media about litigation had been discussed,” Kelley’s lawsuit said. Kingston told Kelley “that high-level GM staff and the company’s general counsel were involved in the teleconference and that these individuals were irate.” Kingston allegedly told Kelley that he was concerned that “higher-ranking executives might want to make things difficult” for Kelley—perhaps banishing him to the “second shift at Hamtramck,” a plant on the outskirts of Detroit.

While his troubles at work intensified, Kelley’s home life blossomed. He and his wife were raising two children, and they purchased a white two-story home on a tree-lined street in sleepy Owosso, Mich. Kelley remained loyal to his employer. As he saw it, he was agitating not to harm the company or enrich himself but to save it—

and because it was the right thing to do. Neighbor Fred Van Alstine, a doctor whose father worked in a GM factory, remembers talking with Kelley around this time and inadvertently slighting the automaker. He recalls Kelley taking offense and saying, “I’m proud to be at GM.”

One day in November 2001, Kelley came across a problem that would forever change him. Making inspections at a rail yard in Tampa, he found a Chevrolet TrailBlazer SUV leaking fuel. Kelley discovered that the fuel line had disconnected at the filter. “They told me as they were driving it off the train, the vehicle quit,” Kelley recalled in a September 2003 deposition. “Fuel began spraying.” The next day, he began getting similar reports from around the country. He began pushing not only his supervisor but product investigators and GM’s legal department to act.

Kelley thought it was just a matter of time before someone was injured or killed. “I became aware of police reports, police stating that they thought the person would have been severely injured had a spark occurred and ignited the fuel,” Kelley said in a deposition. “I became aware of fire departments being involved because of the severity of the fuel leaks.” Despite his concerns, he said, colleagues resisted contacting the government. During a Nov. 27, 2001, conference call with GM engineers, Kelley wrote in his notes, “No NHTSA contact yet.”

“At this point, I knew it was big enough that—where we could not, in my opinion, not report it,” Kelley said in a deposition. “I heard them have many discussions about not wanting to notify the government, not putting voice mails out to dealers, because the government could get them.”

By December, Kelley thought he knew what was causing the problem: The TrailBlazer’s fuel-line quick-connect fasteners weren’t the proper size. He had photos of nine vehicles with leaking fuel. That month, he clashed with a product investigator named C.J. Martin who



Rosie Cortinas holds a photo of her son, Amador, who died in a Cobalt



THE HEARING

In April, CEO Mary Barra testified on Capitol Hill about the Cobalt

had turned up fewer “serious quality incidents” in her own probe, according to Kelley’s deposition testimony.

Kelley pushed Martin on the issue, he testified. “She became concerned that I was overly aggressive on how to fix the problem,” Kelley said. “Her response to me was, ‘Well, what do you want us to do, recall all the cars?’ ‘If that’s what needs to be done,’ I said, ‘yes, that’s what we should do.’ She said that would be way too expensive.”

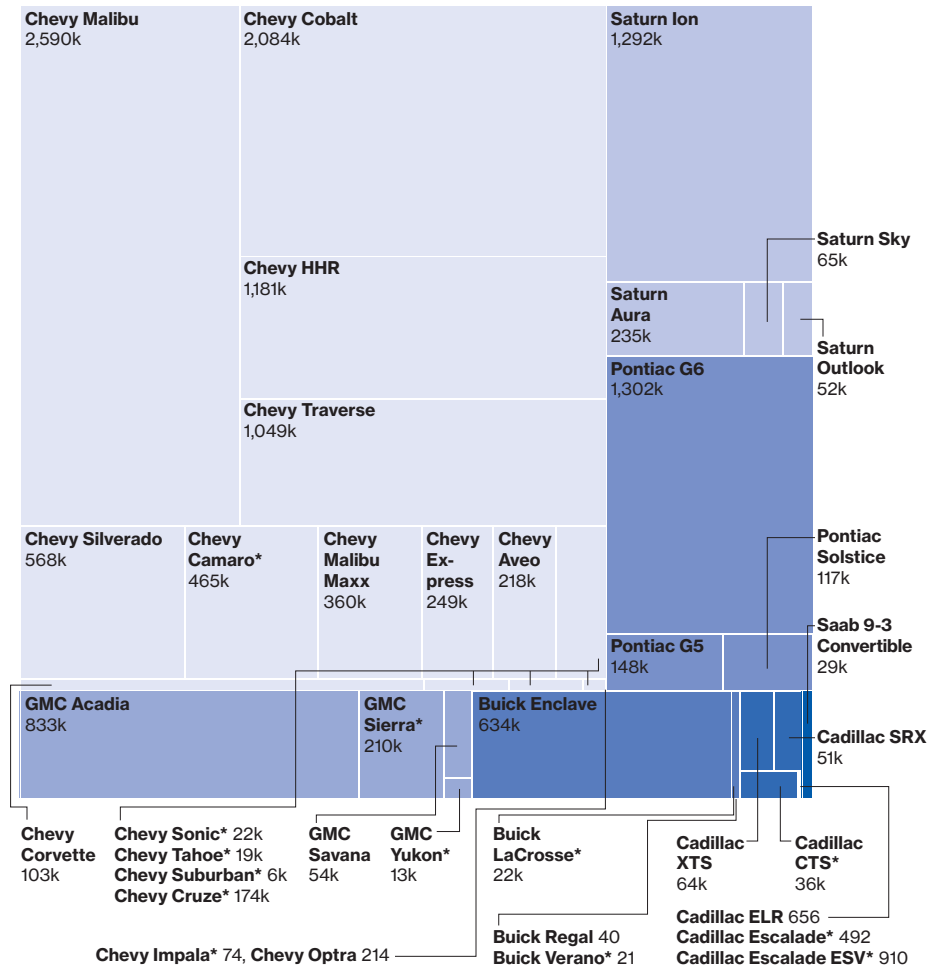
Martin, who retired from GM in early 2002, says she vaguely remembers Kelley but disputes his claim that she resisted a recall. “I didn’t have that power nor that ability,” she says. She also disputes the notion that safety recalls were influenced by costs. “We were never allowed to show cost of an item in regard to making a decision for a safety recall—ever,” she says. That a recall was conducted in April after being flagged in November suggests to Martin that GM acted quickly, she says. “That’s extremely fast. If there was something that told us that there was anything related to safety, I can tell you that team in that period of time was extremely aggressive,” she says.

As 2002 began, Kelley’s crusade “gained significant momentum as a result of a vehicle line executive having experienced a ruptured fuel line on his own company vehicle while driving on the interstate,” according to his lawsuit. On April 30, 2002, GM sent the NHTSA a letter saying it was recalling 60,044 Chevrolet TrailBlazers, GMC Envoys, and Oldsmobile Bravadas, according to government records. Kelley felt vindicated—a moment of satisfaction that would prove fleeting.

Like his predecessor McAleer, Kelley was taken off the quality audit in 2002. He was transferred to a role as brand quality manager for the Chevrolet Cavalier and Pontiac Sunfire, compact cars that preceded the Cobalt. He was given an employee named Steven Oakley, who’d worked for GM since 1990, to handle the Sunfire. They were the middlemen between dealers, who wanted to talk about problems with cars, and engineers, who would work with factories to address those issues—and it was in this role that Kelley began hearing that the TrailBlazer recall had not gone far enough. Dealers complained that SUVs not covered by the recall were still leaking fuel. Kelley contacted one of GM’s field product investigators, employees who look into possible recall issues, and weeks later contacted him again. He got a listless response. “I’ve done all I can,” Kelley testified that the investigator told him. “I wanted more vehicles recalled. They shot me down.”

Kelley decided to escalate his campaign. In a June 17, 2002, memo addressed to his boss’s boss, Keith McKenzie, director of

TOTALING THE RECALLS AT GM



* INDICATES MORE RECALLS ARE COMING, BUT SPECIFIC MODEL DATA HAVE NOT YET BEEN RELEASED AS OF 6/17

car brand quality, Kelley was direct. “It is my belief that General Motors is violating the law by not properly dealing with safety issues that are persistent and ongoing,” Kelley wrote. “I have spent several years trying to work through the system at General Motors to address these concerns with a goal of protecting our customers and stockholders.” McKenzie could not be reached for comment.

McKenzie stonewalled, according to Kelley. Instead of dealing with the complaint, he said, McKenzie warned him about another GM employee who had raised safety-related complaints and how it had derailed his career, the court filings show. Kelley agreed to tone down his memo, resubmitting a version that said GM was “not properly dealing with certain safety issues.” He again gave the company 60 days to address them or he’d go to “the proper law enforcement agencies.”

GM, in a court filing, said McKenzie reacted immediately to the memo, alerting his supervisor, who was “relieved but also extremely upset at [Kelley’s] method of communication.” Sixty-three days later, GM expanded the TrailBlazer recall by 76,000

vehicles. Four days after that, Kelley said he was called into a meeting with McKenzie and Ron Porter, a GM lawyer, “in response to his letter of June 21.” Kelley was told he shouldn’t concern himself with defects on models other than the Cavalier. McKenzie told him vehicles had already been recalled and that more would be included in “direct response” to his concerns.

It was a mixed victory: Kelley got unsafe trucks off the road, but he was transferred that fall to another role, described in his testimony as “special assignment.” It was a GM version of purgatory. He had no job responsibilities, he claimed. In his new role, Kelley testified, he was instructed not to get involved with fuel-line connectors and instead was told to “come up with charts, predict warranty for the vehicle, but not find every problem that GM might have.”

At home in Owosso, Kelley wrestled with taking his concerns public. After putting their kids to bed, Kelley and his wife would sit at their kitchen table and talk late into the night. Beth Kelley says she didn’t know then that GM retirees were telling her husband he might as well leave the company—that nobody goes against GM

and survives. “He would say, ‘What do you think I should do?’ and, ‘Do you want to do this?’” she says now. “If he felt strongly enough that people could potentially die from the safety issue, then I didn’t have any doubt in my mind that we needed to do it.” On Jan. 9, 2003, he filed suit against GM.

Kelley’s allegations—which predated the ignition switch problems—made a small splash; Beth remembers the news crawling across CNN’s ticker. What little momentum there was faded as the challenges of fighting the nation’s largest automaker became apparent. GM argued for a judge to dismiss the case because Kelley did not have standing as a whistle-blower—the law required such a person to prove he had suffered for his actions, and Kelley still had a job with the company and was getting the same pay and benefits.

During a deposition, GM’s outside lawyer, Peter Kellett, pressed Kelley to admit that raising concerns about trucks wasn’t part of his job description, as an inspector of cars.

“My job assignment as a GM employee is to make sure that our customers are safe in any way I can. That’s my understanding,” Kelley said.

GM: “But was it your specific understanding that you were charged with responsibility for monitoring information relating to vehicles other than the [small cars]?”

Kelley: “I felt morally responsible—”

GM: “That’s not what I asked you.”

Kelley: “—to fix a problem that I found in a vehicle.”

GM: “Was it part of your job description?”

Kelley: “No.”

Kelley’s lawsuit didn’t get far. Court records show that his attorney didn’t appear at a hearing in April 2004, and the case was closed without a response from his lawyer. A later motion to reconsider was denied. Kelley’s lawyer, Rose Goff, became sick around this time, eventually dying of cancer. The Kelleys, who had spent more than \$20,000 on legal fees, received a payment covering most of the cost from their lawyer’s insurance company because of the handling of the case, Beth says.

Courtland Kelley sank into depression. His dark brown hair turned snow-white in the span of a year. Van Alstine, the neighbor, who is also Kelley’s doctor, looked at his friend one day with astonishment. “I clearly saw him age drastically,” Van Alstine says. “You just knew he was under a tremendous amount of stress. ... It shook him to the core.” Kelley couldn’t sleep at night, waking in cold sweats and experiencing chest pains and panic attacks, friends and records say.

His wife encouraged him to leave GM. He stayed for his family, she says. “He would always say, ‘You know, if I stay this amount

of time, I’ll get my retirement,’” she says.

“Where else in that job market over the last 10 or 15 years is a person going to go?” says Van Alstine.

At GM, Kelley has been floating from position to position, says McAleer, who was laid off from GM in 2004 and keeps in close contact. “He still has a job—he doesn’t have a career,” he says. “He has no possibility of a promotion.”

As Kelley’s lawsuit petered out in 2004, GM was replacing the Cavalier with the Cobalt. Models produced from 2005 to 2007 contained the ignition switch that could easily slip out of the “on” position at the touch of a driver’s knee or simply from bumps in the road. Airbags failed to deploy in dozens of accidents. Amy Breen, 42, an Ohio preschool teacher, was killed in a 2007 crash, even though she was wearing her seat belt. Marie Sachse, 81, died when her Saturn Ion, which used the Cobalt’s ignition switch, left the road and struck a tree in Missouri in 2009. In June 2013, Dany Dubuc-Marquis, 23, of Quebec, lost control of his Cobalt and was pronounced dead at the scene. At GM, the mounting evidence caused little alarm. “Throughout the entire 11-year odyssey, there was no demonstrated sense of urgency, right to the very end,” Valukas, the former U.S. attorney, wrote in his report.

It is impossible to know what might have happened differently if Kelley had remained an inspector of GM’s small cars as it moved from Cavalier to Cobalt. He

was replaced by his employee, Oakley, who in March 2005 reviewed a memo from a GM engineer on the Cobalt ignition. Interviewed three times by Valukas’s team, Oakley told investigators that he felt pressure to describe something as a convenience issue rather than a safety problem, and cited Kelley’s ordeal. GM declined to make Oakley available for comment.

Yet in one indirect way, Oakley tried to rouse concern. In a draft of a service bulletin to dealers, he included the term “stall,” a “hot” word known to attract attention. Had it actually gone out to car sellers, federal regulators would have most likely seen it. But as they had with Kelley three years before, GM’s product investigators tamped down the response, striking the language. It was one of the many occasions in which GM engineers failed to link the ignition switch position and disabled airbags, Valukas concluded. “From beginning to end, the story of the Cobalt is one of numerous failures leading to tragic results for many,” he wrote.

With the report out, CEO Barra was set to return to the House for more questions on June 18. While she has described the Valukas inquiry as thorough, she has also attempted to limit its implications. “In this case with these vehicles, we didn’t do our job,” Barra said in the June 5 employee town hall. “What the Valukas investigation uncovered—in this situation—is a pattern of incompetence and neglect.” Lawmakers may want to ask her whether the account of Courtland Kelley suggests the company’s problems go deeper.

On June 16, GM recalled an additional 3.16 million U.S. vehicles, across seven models, bringing the total recalled this year in North America to 20 million. “This latest recall raises even more questions about just how pervasive safety problems are at GM,” said Fred Upton (R-Mich.), chairman of the Energy and Commerce Committee, in a statement. “This is not just a Cobalt problem.”

In response to questions from *Bloomberg Businessweek*, GM issued a statement on June 17: “We are going to reexamine Mr. Kelley’s employment claims as well as the safety concerns that he has, and that’s part of our redoubled effort to ensure customer safety.”

A week after her appalled husband woke her up in the middle of the night, Beth Kelley is sitting in her tidy kitchen, as her son, who’s changed his mind about becoming an engineer after watching his father’s tribulations, hovers nearby. Is she surprised that more whistle-blowers didn’t emerge at GM?

She laughs. “I’m surprised there aren’t more people who stand up for what they believe,” she says. “But am I surprised that they wouldn’t go against General Motors? I suppose not.”

GM TAKES THE LEAD

