Justice Department Lets Giant Corporation Evade Prosecution for Deaths of Over 100 People

Published on Thursday, September 17, 2015 by Common Dreams
by Andrea Germanos, staff writer

The $900 million settlement General Motors reached with the Justice Department over its defective ignition switches is being criticized as "unconscionable" for holding no executives criminally accountable for actions that lead to the deaths of over 100 people.

Reuters sums up the settlement:

> *GM admitted to failing to disclose to its U.S. regulator and the public a potentially lethal safety defect with the switches that kept airbags from deploying in some vehicles.*
>
> *The largest U.S. automaker also admitted to misleading consumers about the safety of vehicles affected by the defect.*
>
> *GM was criminally charged with scheming to conceal a deadly safety defect from its U.S. regulator, as well as wire fraud.*
>
> *Under a three-year deferred prosecution agreement, GM must hire an independent monitor to oversee its safety practices, including its ability to fix defects and handle recalls.*

The *Associated Press* adds:

> *The statement of facts to which the company agreed describes in scathing terms GM's deceitful and dismissive approach to handling a problem that was evident even before the defective switch went into production in 2002.*

Danielle Ivory reports at the *New York Times* that the settlement "is, in effect, corporation probation."

"This settlement is shamefully weak," stated Rena Steinzor, a professor of law at the University of Maryland, and author of *Why Not Jail? Industrial Catastrophes, Corporate Malfeasance, and Government Inaction*.

"A GM engineer knew about the fatal defect even before the first car rolled off the line. He secretly changed the part in 2005 but left hundreds of thousands of cars on the road with the bad switch. GM lawyers conspired to delay the recall. Much harsher penalties and individual prosecutions are warranted. The deferred prosecution is a toothless way of approaching a very serious problem," Steinzor said.

Robert Weissman, president of the watchdog organization Public Citizen, lambasted the deal, stating Thursday, "Shame on the Department of Justice and shame on its prosecutors."

"This deal will not deter future corporate wrongdoers, it will not hold GM accountable, and it sets back the demand for justice by the family members of victims of GM's horrible actions," Weissman continued.

"It is unconscionable that a giant corporation can conceal information about deadly safety defects for a decade, be responsible for the deaths of more than 100 people as a result and escape any criminal liability based only on a corporate fine and a promise not to do wrong again in the future," he said. "It is equally unconscionable that none of the executives inside General Motors responsible for this disaster are going to be held criminally accountable, as now appears to be the case."

Consumer advocate Ralph Nader similarly criticized the settlement, stating Thursday that "the exoneration of all GM personnel gives new meaning to the surrender of federal law enforcement that remains impervious to the preventable

hundreds of thousands of deaths and injuries resulting from documented corporate criminal negligence or outright criminality throughout our country every year."

Writing in 2014, filmmaker Michael Moore denounced attempts to blame the faulty switches on GM's "corporate culture."

> *No, the cause of this tragedy is an economic system that places profit above everything else, including—and especially—human life. GM has a legal and fiduciary responsibility to its shareholders to make the biggest profits that it can. And if their top people crunch the numbers and can show that they will save more money by NOT fixing or replacing the part, then that is what they are going to goddamn well do. F*** you, f*** me, and f*** everybody they sent to their deaths. That pretty much sums up their "culture". They knew they wouldn't get caught, and if they did, no one would ever serve any time.*

Laura Christian, whose 16-year-old daughter died in 2005 when the airbag in her Chevy Cobalt failed to deploy, said, "If a person kills someone because he decided to drive drunk, he will go to jail. Yet the GM employees who caused 124 deaths are able to hide behind a corporation because our laws are insufficient."

Federal Court Overturns

Landmark Ruling on NSA Spying

Published on Friday, August 28, 2015 by Common Dreams
by Nadia Prupis, staff writer

A federal court on Friday reversed a lower court's landmark 2013 decision that said the National Security Agency (NSA)'s spying operation was likely unconstitutional.

The U.S. Court of Appeals for the District of Columbia Circuit ruled (pdf) that the plaintiff in the case of *Klayman v. Obama* did not have the legal standing to challenge the constitutionality of the program. Judge Richard Leon, who issued the 2013 ruling, called the NSA's operations "almost Orwellian."

Siding instead with the government, the three-judge panel on Friday argued that the plaintiff, conservative activist Larry Klayman, did not demonstrate the "concrete and particularized" injury required to sue the government because he could not prove that the dragnet vacuumed up his metadata in particular.

The impact of the ruling is unclear, coming as it does just months after U.S. Congresspassed legislation to replace unlimited government spying with a more restricted program. A separate ruling by the Second Circuit Court of Appeals in New York earlier this year also found that the NSA's bulk surveillance program was illegal.

Observers of the case took special note that today's ruling made no judgement on the constitutionality of the bulk data collection program, only that Klayman's standing was deemed insufficient. As journalist Glenn Greenwald tweeted, "Nothing about whether bulk collection is actually constitutional."

And ACLU deputy legal director Jameel Jaffer added, "Only one appeals court has ruled on merits. And it ruled program unlawful."

As of now, the case will be sent back to Leon for further proceedings. The *Associated Press*reports that Leon will "determine what further details about the program the government must provide."

Brothers in Arms: Jeb Bush Won't Say 'No' To Future Torture

Published on Friday, August 14, 2015 by Common Dreams
by Jon Queally, staff writer

While also foregoing the opportunity to condemn the establishment of a torture program authorized and ordered by his brother, Republican presidential candidate Jeb Bush has said he won't rule out the future use of torture if he becomes commander-in-chief and deems it necessary.

"I don't want to make a definitive, blanket kind of statement," Jeb Bush told an audience of potential voters in Iowa on Thursday in response to a question regarding the use of torture ordered by former president George W. Bush and the executive order put in place by President Barack Obama that explicitly ended the agency's abusive interrogation program.

According to various reporting on the exchange, Bush suggested there may be occasions when brutal behavior—which under his brother's watch included severe beatings, waterboarding, prolonged sleep deprivation inside crammed boxes, death threats against family members, and "much worse"—may be necessary "to keep the country safe." That's why, he

reportedly stated, “I’m not saying in every condition, under every possible scenario” he would reject the use of torture.

“True to his family values,” scoffed *The Nation*‘s John Nichols on Twitter in response, “Jeb Bush just can’t rule out torture.”

Later in the day, according to the *Guardian*, Jeb Bush said there was a difference between enhanced interrogation and torture but declined to be specific. “I don’t know. I’m just saying if I’m going to be president of the United States you take this threat seriously.”

These kinds of responses, according to Trevor Timm of the Freedom of the Press Foundation, is “what happens when you don’t prosecute officials for illegally torturing people.”

Though many political commentators often discuss the challenge Jeb will face when it comes to distancing himself from his brother’s legacy, Timm suggests that Jeb can certainly (and increasingly) be judged on his own public comments, especially when it comes to foreign policy. So far, Timm observed in a subsequent tweet, the American people have learned from Jeb Bush that his foreign policy could be summarized with these key points: “Maybe send more troops to Iraq, rip up the Iran deal and maybe bomb them, and maybe torture more people.”

Black and White: Survey

Reveals Huge Disparities in Assessing Police Violence

Published on Wednesday, August 05, 2015 by Common Dreams
by Jon Queally, staff writer

Just days ahead of the one-year anniversary of Michael Brown's killing by a police officer in Ferguson, Missouri—a death which propelled the national Black Lives Matter movement and a national conversation about racialized police violence to the forefront—a new poll released Wednesday reveals just how different the perceptions and experiences regarding law enforcement in the United States remain for black community members compared to their white counterparts.

Conducted by the Associated Press-NORC Center for Public Affairs Research at the University of Chicago, the new survey found black people are much more likely to have had a personally negative experience with police officers, with more than 3 in 5 saying they or a family member had been ill-treated by police based on their race, compared to just 3 percent of white respondents who said the same. In addition to actual experience, the perceptions of law enforcement practices and behavior were starkly different between black and white civilians.

Strikingly, when it came to assessing the severity of problematic police violence in the country, nearly three-quarters of black respondents consider violence against civilians by law enforcement officers to be an extremely or very serious problem, while less than 20 percent of white people feel the same.

Additionally, as *AP* reports, the survey found:

- More than two-thirds of blacks – 71 percent – thought police are treated too leniently by the criminal justice system when they hurt or kill people. A third of whites

say police are getting away with it, while nearly half – 46 percent – say the police are treated fairly by the criminal justice system.

- When asked why police violence happens, 62 percent of whites said a major reason is that civilians confront the police, rather than cooperate, when they are stopped. Three out of 4 blacks, or 75 percent, said it is because the consequences of police misconduct are minimal, and few officers are prosecuted for excessive use of force. More than 7 in 10 blacks identified problems with race relations, along with poor relations between police and the public that they serve, as major reasons for police violence.
- Whites and blacks disagreed over whether police are more likely to use deadly force against blacks. Nearly 3 out of 4 whites – 74 percent – thought race had nothing to do with how police in their communities decide to use deadly force. Among blacks, 71 percent thought police were more likely to use deadly force against black people in their communities, and 85 percent said the same thing applied generally across the country. Fifty-eight percent of whites thought race had nothing to do with police decisions in most communities on use of deadly force.
- Seventy-two percent of whites said they always or often trust police to do what is right for them and their community, while 66 percent of blacks said they only sometimes, rarely, or never trust the police to do what is right.

While accounting for how the diversity of a community impacts certain perceptions, the survey found white Americans who live in more diverse communities—those where census data show at least 25 percent of the population is non-white—were more likely than whites who live in more homogenous communities to say police in their communities sometimes treat minorities more roughly, 58 percent to 42 percent. Additionally, those in

more diverse areas are more likely to see police officers as too quick to use deadly force, 42 percent to 29 percent.

Despite the very large differences in experience and perception, the study also discovered widespread agreement among both races that specific police reforms, in fact, are needed. For example, 71 percent of overall respondents said body cameras on police would be an effective deterrent to police aggression and 52 percent said they think community policing programs would help reduce the friction in minority communities.

“This survey indicates that while there is a deep divide among Americans on these issues, there are key points of agreement as well,” said Trevor Tompson, director of the AP-NORC Center. “There is widespread agreement that race relations in the United States are in a sorry state, and blacks and whites agree that changes in policies and procedures could be effective in reducing tensions between minorities and police and in limiting violence against civilians.”

The nationwide poll was collected July 17 to 19 using the web, landlines, and cell phones to conduct interviews with 1,223 adults, including 311 blacks who were sampled at a higher rate than their proportion of the population for reasons of analysis.

Police Attack On Black

Children At Pool Party Sparks Outrage, Calls to Mobilize

Published on Monday, June 08, 2015 by Common Dreams, by Sarah Lazare, staff writer

A police officer's brutal assault on black and brown teens attending a Friday pool party in the majority-white town of McKinney, Texas has sparked nationwide outrage and local plans for a March for Justice under the call, "We won't stand idly by while children are terrorized in the street."

"We are gathering to do a peaceful demonstration and standing in solidarity to show that we are a community and we stand together," Keyaira Saunders Alexander of the Texas-based civil rights organization Next Generation Action Network told *Common Dreams*, explaining that the march is slated to take place Monday at 6:30 PM. "We want justice for those teens that were affected."

The incident was captured in an approximately seven-minute video clip that went viral over the weekend, racking up nearly five million views on YouTube. The footage shows white police officer and patrol supervisor Eric Casebolt outside the Craig Ranch North Community Pool aggressively chasing and detaining teenagers—most black, all people of color, and none appearing to pose a threat—while slinging insults and curse words at them.

At one point, officer Casebolt proceeds to violently throw an African-American girl in a swimsuit, reportedly 14 years old, to the ground as she cries for her mother. When other teenagers of color attempt to aid the distraught child, the officer draws his gun on them, prompting them to flee. The officer then pins down the young girl by placing his knees on her back and pressing her face into the ground.

The white youth watching the incident can be seen being left

completely alone by the police. White 15-year-old Brandon Brooks, who recorded the video, told *Buzzfeed*, "Everyone who was getting put on the ground was black, Mexican, Arabic. [The cop] didn't even look at me. It was kind of like I was invisible."

The following footage of the incident may be disturbing to the viewer:

The McKinney Police Department claimed in a statement released Sunday, "The initial call came in as a disturbance involving multiple juveniles at the location, who do not live in the area or have permission to be there, refusing to leave."

But this official version of events appears to be crumbling.

Black teenager Tatiana Rose, a Craig Ranch neighborhood resident, said she and her family members hosted the pool party and cookout, which was disrupted when one of the white pool-goers began hurling racial slurs at youth and telling them to "go back to Section 8 housing." Her account, which was reiterated by teens who spoke to *Buzzfeed*, was posted to YouTube on Sunday:

No matter the official justification, civil rights advocates charge that the video unambiguously shows police targeting black and brown children with excessive force. "From what we have seen on the video, the treatment is inhumane and especially since we are talking about teenagers," said Gary Bledsoe, president of the Texas State Conference of the NAACP. "These are our children."

The incident is garnering broad condemnation amid a growing nation-wide movement against institutional racism and police killings under the banner of "Black Lives Matter."

Some who are active in this movement say that the McKinney incident, in particular, highlights the ways in which police violence specifically targets black women and girls. "[I]t is the young girl, forced by her hair to the ground as she screamed for her mother, that chilled me the most," wrote Kirsten West Savali in *The Root*.

As Yoni Appelbaum pointed out in an *Atlantic* article published Monday, the violence must be evaluated as part of broader U.S. history, in which pools have been key "battlefields" for desegregation, with many choosing to make pools private rather than racially integrate them. "Whatever took place in McKinney on Friday, it occurred against this backdrop of the privatization of once-public facilities, giving residents the expectation of control over who sunbathes or doggie-paddles alongside them," wrote Appelbaum.

Furthermore, Appelbaum notes that McKinney itself has a troubling history of racial segregation: In 2009, the city settled a lawsuit that charged it with "illegal racial steering" by blocking Section 8 housing in the more affluent, white part of town.

Many have argued that the fact that some white neighborhood residents have no problem with the police response, and are even thanking police for Friday's assault, underscores the deep racism that pervades the community.

The police department, for its part, said the video "raised concerns that are being investigated by the McKinney Police Department," and announced that officer Casebolt has been placed on temporary administrative leave. The mayor of McKinney, Brian Loughmiller, stated that he was "disturbed" by the incident.

But Alexander emphasized to *Common Dreams* that the racism that black children—and all youth of color—face extends far beyond this one video. "We hope the world is able to see, we are

coming together and speaking out," she said. "We need social change."

A Stillborn Child, A Charge of Murder and the Disputed Case Law on 'Fetal Harm'

by Nina Martin ProPublica, March 18, 2014, 12 p.m.

Flickr

Rennie Gibbs's daughter, Samiya, was a month premature when she simultaneously entered the world and left it, never taking a breath. To experts who later examined the medical record, the stillborn infant's most likely cause of death was also the most obvious: the umbilical cord wrapped around her neck.

But within days of Samiya's delivery in November 2006, Steven Hayne, Mississippi's de facto medical examiner at the time, came to a different conclusion. Autopsy tests had turned up traces of a cocaine byproduct in Samiya's blood, and Hayne declared her death a homicide, caused by "cocaine toxicity."

In early 2007, a Lowndes County grand jury indicted Gibbs, a 16-year-old black teen, for "depraved heart murder" 2014 defined under Mississippi law as an act "eminently dangerous to others2026regardless of human life." By smoking crack during her pregnancy, the indictment said, Gibbs had "unlawfully, willfully, and feloniously" caused the death of her baby. The maximum sentence: life in prison.

Seven years and much legal wrangling later, Gibbs could finally go on trial this spring 2014 part of a wave of "fetal harm" cases across the country in recent years that pit the rights of the mother against what lawmakers, health care workers, prosecutors, judges, jurors, and others view as the rights of the unborn child.

A judge is said to be likely to decide this week if the case should move forward or be dismissed. Assuming it continues, whether Gibbs becomes the first woman ever convicted by a Mississippi jury for the loss of her pregnancy could turn on a fundamental question that has received surprisingly little scrutiny so far by the courts: Is there scientific proof that cocaine can cause lasting damage to a child exposed in the womb, or are the conclusions reached by Hayne and prosecutors based on faulty analysis and junk science?

The case intersects a number of divisive and difficult issues 2014 the criminal justice system's often disproportionate treatment of poor people of color, especially in drug prosecutions; the backlash to *Roe v. Wade* and the conservative push to establish "personhood" for fetuses as part of a broad-based strategy to weaken abortion laws. A wild card in the case 2014 Mississippi's history of using sometimes dubious forensic evidence to win criminal convictions over many years 2014 could end up playing a central role.

Prosecutors argue that the state has a responsibility to protect children from the dangerous actions of their parents. Saying Gibbs should not be tried for murder is like saying that "every drug addict who robs or steals to obtain money for drugs should not be held accountable for their actions because of their addiction," the state attorney general's office wrote in a brief to the Mississippi Supreme Court.

But some civil libertarians and women's rights advocates worry

that if Gibbs is convicted, the precedent could inspire more prosecutions of Mississippi women and girls for everything from miscarriage to abortion 2014 and that African Americans, who suffer twice as many stillbirths as whites, would be affected the most.

Mississippi has one of has one of the worst records for maternal and infant health in the U.S., as well as some of the highest rates of teen pregnancy and sexually transmitted disease and among the most restrictive policies on abortion. Many of the factors that have been linked to prenatal and infant mortality 2014 poverty, poor nutrition, lack of access to healthcare, pollution, smoking, stress 2014 are rampant there.

“It’s tremendously, tremendously frightening, this case,” said Oleta Fitzgerald, southern regional director for the Children’s Defense Fund, an advocacy and research organization, in Jackson. “There’s real fear for young women whose babies are dying early who [lack the resources to] defend themselves and their actions.”

Those who share such worries point to a report last year by the New York2013based National Advocates for Pregnant Women (NAPW) that documented hundreds of cases around the country in which women have been detained, arrested and sometimes convicted 2014 on charges as serious as murder 2014 for doing things while pregnant that authorities viewed as dangerous or harmful to their unborn child.

The definition of fetal harm in such cases has been broad: An Indiana woman who attempted suicide while pregnant spent a year in jail before murder charges were dropped last year; an Iowa woman was arrested and jailed after falling down the stairs and suffering a miscarriage; a New Jersey woman who refused to sign a preauthorization for a cesarean section didn’t end up needing the operation, yet was charged with child endangerment and lost custody of her baby. But the vast

majority of cases have involved women suspected of using illegal drugs. Those women have been disproportionately young, low-income and African American.

Lynn Paltrow, the executive director of NAPW, said that decisions to arrest and charge women often have political and moral overtones and are mostly based on unproved or discredited notions about the effects of prenatal drug exposure.

The U.S. Supreme Court has established stringent rules limiting the use of unproved science in legal proceedings, but these often fall by the wayside in fetal harm cases, Paltrow said. She said that women are typically convicted based on evidence that would be demolished by lawyers with the time and resources to effectively refute it in court 2013 lawyers, say, for pharmaceutical companies whose drugs are challenged in court as being unsafe.

“If a pregnant, drug-using woman were a corporation, her case wouldn’t even get to trial because the rules of evidence require that there be science to prove causation,” Paltrow said.

The quality of the science is very much an issue in the Gibbs case.In a motion to throw out Hayne’s autopsy report, defense lawyers have claimed that that the medical examiner misinterpreted toxicology results and failed to explore alternative causes of death.

Those claims are not the first time Hayne’s work has come under attack. Indeed, Hayne 2014 who effectively served as Mississippi’s statewide medical examiner from the late 1980s to 2008, eventually performing 80 to 90 percent of the autopsies in the state annually 2014 has been a hugely influential and controversial figure in the criminal justice sys
tem there for years.

In litigation (much of it by the Mississippi Innocence Project) and news reports (many of them by Radley Balko, now of the Washington Post), defense lawyers and other medical examiners have accused Hayne of being sloppy, exaggerating his credentials, and leaping to conclusions that sometimes had no basis in science. At least four murder convictions based on Hayne's evidence 2014 one involving an innocent man sentenced to death for the killing of a three-year-old girl 2014 have been overturned since 2007.

Despite having failed to complete his certification test by the American Board of Pathology, Hayne not only practiced for two decades in Mississippi and nearby states, but by his own estimate he performed as many as 1,800 autopsies a year (the National Association of Medical Examiners recommends that a single doctor conduct no more than 250). Mississippi stopped hiring Hayne in 2008, but he continues to testify in cases that he handled before then.

In their court filing, Gibbs's lawyers cited a capital murder conviction of a 14-year-old boy that the Mississippi Supreme Court overturned because of what it called "scientifically unfounded" testimony by Hayne. That case involved both the prosecutor and the judge handling the Gibbs prosecution. (To read more about Hayne, go here, here, and here.)

Prosecutors have yet to respond to the filing by Gibbs's lawyers, and they did not return a telephone call from ProPublica seeking comment. But they have vigorously defended Hayne in other cases where his methods and conclusions have been called into question.

Hayne also didn't respond to a request for an interview.

Michael V. Cory Jr., a Jackson attorney, represented Hayne in a defamation suit against the Innocence Project, which had criticized his work and record. The national organization paid Hayne $100,000 as part of a settlement in that case. Cory said

many of the claims against Hayne are unfounded.

“Given the number of autopsies he’s performed, there’s certainly going to be some errors,” Cory said in an interview last week. “But a lot of the criticisms don’t turn out to be fair. Just because he’s been criticized in some cases doesn’t mean there’s any inherent unreliability in his findings. Certainly Dr. Hayne would want the truth to come out.”

Gibbs’s lawyers would not provide many specifics about her background or the events leading up to her baby’s death. The records make this much clear: Gibbs, pregnant at 15, tested positive three times for marijuana and or cocaine during her pregnancy. She then missed several doctor’s appointments.

In November 2006, 36 weeks into her pregnancy, Gibbs ended up in the emergency room at Baptist Memorial Hospital in Columbus, where “fetal demise” was diagnosed and labor was induced. A urine test on Gibbs again detected the presence of cocaine and marijuana. By the day after Samiya’s delivery, Hayne had noted that the probable cause of death was homicide.

Gibbs’s lawyers spent the first several years trying to persuade the Mississippi Supreme Court to throw out the murder charge. (Gibbs, now 23, has been out on bail for much of the time.) They filed their motion to exclude Hayne’s testimony last year.

Expert witnesses hired by the defense claim that the toxicology results didn’t actually support Hayne’s findings. Although Samiya’s blood showed traces of benzoylecgonine, a cocaine byproduct, cocaine itself was “not detected,” according to the lab that did the tests. Kimberly Collins, a forensic pathologist in Atlanta associated with Emory University, said in an affidavit: “It is impossible to conclude from the very small amount of benzoylecgonine that the stillbirth was caused by cocaine toxicity.” Two other defense experts concurred.

The experts maintain that there were other problems with the findings as well. Hayne, they say, did not order tests to rule out infection or fetal abnormality, two common causes of stillbirth. Hayne said that Gibbs's placenta was normal, but closer examination, the defense experts assert, showed the presence of blood clots 2014 a sign that the baby's oxygen supply had been cut off. (In a 2011 study by a consortium of researchers around the U.S., 24 percent of stillbirths were caused by blood clots or other placenta abnormalities.)

The experts said cocaine has been linked to one kind of devastating outcome 2014 placenta abruption (when the placenta pulls away from the uterus), which can lead to stillbirth. That was not present in Samiya's death.

In Gibbs's case, the evidence pointed to "umbilical cord compression" as the likeliest explanation for Samiya's death, the defense experts said.

At the same time, Gibbs's attorneys are challenging the very notion that cocaine exposure in utero causes widespread fetal mortality or serious, long-lasting harm in children. The idea dates back to the 1980s and 201890s, when the crack epidemic led to fears about a generation of developmentally impaired "crack babies." And it has gained a kind of credence over the years as OB/GYNs, parenting sites, and many others have urged women to avoid all kinds of substances during pregnancy 2014 everything from tobacco and wine to raw-milk cheese, sushi and hair dye.

But the concerns about cocaine have proven to be "wildly overstated," said Deborah A. Frank, a pediatrician and researcher at Boston University School of Medicine who has participated in numerous studies on the topic over the past two decades.

"There is no consistent association between cocaine use during pregnancy and serious fetal harms, birth defects, or serious

long-term physical or developmental impairments," Frank wrote in an affidavit. "There is no convincing evidence that prenatal cocaine exposure is more strongly associated with fetal harm or developmental deficits than exposure to legal substances, like tobacco and alcohol, or many other factors."

Frank and other researchers said they have been trying to set the record straight for years, but their arguments have rarely had a hearing in court, Paltrow said. Defense lawyers 2014 often public defenders 2014 don't have the resources to hire experts to challenge prosecutors, and they may not even realize what the science actually says. It's not unusual for women to plead guilty in such cases to avoid the risk of losing at trial 2014 and getting a longer sentence. (Indeed, at least two mississippi women are believed to have pleaded guilty to manslaughter in the early 2000s, Gibbs' lawyers said.)

"For a whole host of reasons, women should not be prosecuted for this sort of thing," said Robert McDuff, one of Gibbs' lawyers. "But if they are going to be, it needs to be based on scientific research and analysis that is more reliable than what we have now."

Cory, Hayne's lawyer who also does criminal defense work, acknowledged that, "In the criminal justice system, where the stakes are higher, the resources are not there to challenge the science. The judge, who is the gatekeeper, has to use t he information they have. You get some crazy results in criminal cases. Science where there is no consensus gets admitted as if there was consensus."

Gibbs' attorneys are hopeful that the judge in their case may yet throw out the depraved-heart murder charge. Meanwhile, one thing the evidence does suggest: "Incarceration or the threat of incarceration have proved to be ineffective in reducing the incidence of alcohol or drug abuse," the American College of Obstetrics and Gynecology's Committee on Health Care for

Underserved Women wrote in 2011.

Moreover, the committee determined, pregnant women who fear the legal system avoid or emotionally disengage from prenatal care 2014 the very thing that might help assure that they give birth to healthy babies.

“Drug enforcement policies that deter women from seeking prenatal care are contrary to the welfare of the mother and fetus,” it said.

Boys in Custody and the Women Who Abuse Them

by Joaquin Sapien

ProPublica, July 2, 2013, 1:21 p.m.

The older authority figure wins the trust of the young target by cultivating a false friendship, having heart-to-heart conversations, giving gifts, offering protection. And then the sex ensues, sometimes forced, sometimes seemingly consensual.

It is a classic predatory tactic known as “grooming,” and no one familiar with it could have been terribly surprised when a new report from the U.S. Department of Justice declared that young people in the country’s juvenile detention facilities are being victimized in just this way. The youngsters in custody are often deeply troubled, lacking parents, looking for allies. And the people in charge of the facilities wield great power over the day-to-day lives of their charges.

What was a genuine shock to many was the finding that in the

vast majority of instances, it was female staff members who were targeting and exploiting the male teens in their custody.

The phenomenon – a particularly unexamined corner of the nation's long-troubled juvenile justice system 2013 presents an array of challenges for those concerned about better protecting young people in custody: encouraging male teens to understand such sex is, in fact, a crime, that it is never really consensual, and that its long term effects can be seriously harmful; requiring corrections officials to stop blaming the young boys and meaningfully punish the female staffers; and establishing standards of conduct meant to end the abuse.

"Many corrections leaders continue to minimize this abuse, arguing that it's the kids who are manipulating the staff, that these boys are asking for it," said Lovisa Stannow, executive director of the California-based nonprofit Just Detention International, which advocates for the elimination of prison rape. "That's simply not good enough."

The Justice Department first discovered the startling form of abuse in 2010, when it surveyed more than 9,000 youngsters living in juvenile halls and group homes. More than 10 percent of the respondents said they'd been sexually abused by staff and 92 percent said their abuser was female.

In the last three years, the numbers haven't changed much.

The Justice Department released its second report last month, and this time researchers surveyed more than 8,700 juveniles housed in 326 facilities across the country. In all, the facilities house more than 18,000 juveniles, representing about one quarter of the nation's total number of youngsters living in detention centers.

Drawing on their sample, Justice Department researchers estimate that 1,390 juveniles in the facilities they examined have experienced sex abuse at the hands of the staff

supervising them, a rate of nearly 8 percent. Twenty percent who said they were victimized by staff said it happened on more than 10 occasions. Nine out of 10 victims were males abused by female staff.

Nearly two-thirds of the abused youngsters said that the officials lured them into sexual relationships by giving them special treatment, treating them like a favorite, giving gifts and pictures.

Twenty-one percent said staff gave them drugs or alcohol in exchange for sex.

Stannow said that the rate of abuse perpetrated by female guards on male victims is the result of a "dangerous combination" of cultural and institutional problems, not the least of which is the fact that women forcing males into sex does not comport with society's conventional definition of rape.

"When you have an extreme power differential and absolute unchecked power, bad things start happening," Stannow said. "When you combine this with a culture where sex abuse by females on males isn't taken seriously, then you have the perfect set-up for women with all this power to get away with it."

Stannow and others say that the young male victims themselves may not even consider their relationships with women to constitute sex abuse. They might consider it consensual because they didn't actively fight off their abusers.

"The biggest concern for me is what this means they're not getting inside detention, which is a positive relationship with adults and with authority figures. They've not learned what those positive relationships should be like, and, for many, they've never had them in their life," said Michele Deitch, an attorney and senior lecturer at the University of Texas's School of Public Affairs in Austin.

“These boys aren’t getting the kinds of treatment and programming that are supposed to make them more productive citizens and healthier youth,” said Deitch, who focuses on improving safety conditions in prisons and juvenile detention centers. “Many have experienced trauma their entire lives and now this is just more trauma for them to deal with.”

Reggie Wilkinson, the former director of the Ohio Department of Rehabilitation and Correction, said that consensual sex between a corrections officer and an inmate is impossible given the power imbalance between the two.

But he also said that, in some cases, both female guards and the boys they molest share some responsibility.

“There’s no such thing as consensual sex when you are supervising someone, regardless of their age, but the reality of it is that some of the guys in prison are very persuasive and some of the women are very persuasive,” Wilkinson said.

“I’m not sure anybody has got a real handle on why the Bureau of Justice Statistics is finding these kinds of numbers, but it’s on the radar screen of a lot of people.”

Wilkinson and Stannow agree that it is important to keep women as detention facility personnel. They often do great work. But the predators, they say, must be identified, halted and prosecuted.

“I think in many cases female staff are better suited than males,” Wilkinson said. “A good mix of staff is what we always want. That so-called motherly impact is a big deal and women who are stern but fair with the inmates I think can perform that job as well as any male could.”

Bank of America Lied to Homeowners and Rewarded Foreclosures, Former Employees Say

by Paul Kiel ProPublica, June 14, 2013, 5:44 p.m.

A customer uses an ATM at a Bank of America branch office on April 17, 2013 in San Francisco, California. (Justin Sullivan/Getty Images)

Bank of America employees regularly lied to homeowners seeking loan modifications, denied their applications for made-up reasons, and were rewarded for sending homeowners to foreclosure, according to sworn statements by former bank employees.

The employee statements were filed late last week in federal court in Boston as part of a multi-state class action suit brought on behalf of homeowners who sought to avoid foreclosure through the government's Home Affordable Modification Program (HAMP) but say they had their cases botched by Bank of America.

In a statement, a Bank of America spokesman said that each of the former employees' statements is "rife with factual inaccuracies" and that the bank will respond more fully in court next month. He said that Bank of America had modified more loans than any other bank and continues to "demonstrate our commitment to assisting customers who are at risk of foreclosure."

Six of the former employees worked for the bank, while one worked for a contractor. They range from former managers to front-line employees, and all dealt with homeowners seeking to avoid foreclosure through the government's program.

When the Obama administration launched HAMP in 2009, Bank of America was by far the largest mortgage servicer in the program. It had twice as many loans eligible as the next largest bank. The former employees say that, in response to this crush of struggling homeowners, the bank often misled them and denied applications for bogus reasons.

Sometimes, homeowners were simply denied en masse in a procedure called a "blitz," said William Wilson, Jr., who worked as an underwriter and manager from 2010 until 2012. As part of the modification applications, homeowners were required to send in documents with their financial information. About twice a month, Wilson said, the bank ordered that all files with documentation 60 or more days old simply be denied. "During a blitz, a single team would decline between 600 and 1,500 modification files at a time," he said in the sworn declaration. To justify the denials, employees produced fictitious reasons, for instance saying the homeowner had not sent in the required documents, when in actuality, they had.

Such mass denials may have occurred at other mortgage servicers. Chris Wyatt, a former employee of Goldman Sachs subsidiary Litton Loan Servicing, told ProPublica in 2012 that the company periodically conducted "denial sweeps" to reduce the backlog of homeowners. A spokesman for Goldman Sachs said at the time that the company disagreed with Wyatt's account but offered no specifics.

Five of the former Bank of America employees stated that they were encouraged to mislead customers. "We were told to lie to customers and claim that Bank of America had not received documents it had requested," said Simone Gordon, who worked at

the bank from 2007 until early 2012 as a senior collector. “We were told that admitting that the Bank received documents 2018would open a can of worms,'” she said, since the bank was required to underwrite applications within 30 days of receiving documents and didn’t have adequate staff. Wilson said each underwriter commonly had 400 outstanding applications awaiting review.

Anxious homeowners calling in for an update on their application were frequently told that their applications were “under review” when, in fact, nothing had been done in months, or the application had already been denied, four former employees said.

Employees were rewarded for denying applications and referring customers to foreclosure, according to the statements. Gordon said collectors “who placed ten or more accounts into foreclosure in a given month received a $500 bonus.” Other rewards included gift cards to retail stores or restaurants, said Gordon and Theresa Terrelonge, who worked as a collector from 2009 until 2010.

This is certainly not the first time the bank has faced such allegations. In 2010, Arizona and Nevada sued Bank of America for mishandling modification applications. Last year, Bank of America settled a lawsuit brought by a former employee of a bank contractor who accused the bank of mishandling HAMP applications.

The bank has also settled two major actions by the federal government related to its foreclosure practices. In early 2012, 49 state attorneys general and the federal government crafted a settlement that, among other things, provided cash payments to Bank of America borrowers who had lost their home to foreclosure. Authorities recently began mailing out those checks of about $1,480 for each homeowner. Earlier this year, federal bank regulators arrived at a settlement that also resulted in payments to affected borrowers, though most

received $500 or less.

The law suit with the explosive new declarations from former employees is a consolidation of 29 separate suits against the bank from across the country and is seeking class action certification. It covers homeowners who received a trial modification, made all of their required payments, but who did not get a timely answer from the bank on whether they'd receive a permanent modification. Under HAMP, the trial period was supposed to last three months, but frequently dragged on for much longer, particularly during the height of the foreclosure crisis in 2009 and 2010.

ProPublica began detailing the failures of HAMP from the start of the program in 2009. HAMP turned out to be a perfect storm created by banks that refused to adequately fund their mortgage servicing operations and lax government oversight.

Bank of America was far slower to modify loans than other servicers, as other analyses we've cited have shownspan>. A study last year found that about 800,000 homeowners would have qualified for HAMP if Bank of America and the other largest servicers had done an adequate job of handling homeowner applications.

A Prosecutor, a Wrongful Conviction and a Question of

Justice

by Joaquin Sapien ProPublica, May 23, 2013, 9 a.m.by Joaquin Sapien, ProPublica, and Sergio Hernandez, Special to ProPublica, April 3by Joaquin Sapien, ProPublica, April 5

Edwin Oliva, a 29-year-old petty thief and drug addict, says he was a wreck as he sat in a chair in the Brooklyn District Attorney's office in winter 1995. A year earlier, he'd told police a lie that helped implicate a possibly innocent man in a murder. Now, prosecutors wanted him to repeat his story in court; he wanted to take it back.

Oliva says he had been on a crack and heroin binge at the time he'd made his initial claim, and that he told prosecutors he implicated the man only because of relentless pressure from police. A statement he had signed 2014 asserting that he had heard a young man named Jabbar Collins discussing a murder plot days before a man wound up shot to death in a Brooklyn apartment building 2014 was a fiction that detectives had fed him.

But the prosecutors, Oliva says, weren't having it. Collins, the man Oliva had fingered, had already been arraigned based in part on Oliva's word. Collins, then 21, was sitting in a Rikers Island jail cell awaiting trial, and the Brooklyn District Attorney's office was intent that he stay behind bars for a very long time. Oliva was going to be a critical witness, whether he liked it or not.

When Oliva refused to testify, the prosecutors, led by senior Brooklyn Assistant District Attorney Michael Vecchione, threatened to charge him with conspiracy to commit murder, Oliva says. Prosecutors then held Oliva for several days at Lincoln Correctional Facility, a minimum-security prison in Harlem. But Oliva held firm.

"I refused to testify to a lie," he said in a sworn statement

submitted years later in federal court.

Vecchione's team, Oliva says, finally found a way to leverage him: Oliva was out of prison on a work release program, so prosecutors got the privilege revoked, and on March 1, 1995, Oliva was transferred to Ulster Correctional Facility, a maximum security state prison two hours north of New York City.

Oliva was brought back to the Brooklyn District Attorney's Office for a meeting with Vecchione's partner, Assistant District Attorney Charles Posner. According to Oliva, Posner told him that he could have his work release privileges restored if he'd testify against Collins.

"I felt trapped and desperate," Oliva said. "And so I agreed."

Oliva took the stand against Collins, insisting that his testimony was not a result of any agreement with prosecutors. And Vecchione, in a powerful closing argument, vouched for Oliva's credibility.

"He saw something. He heard something," Vecchione told the jury. "Someone asked him about it. And he is telling what he saw and he is telling what he heard. Nothing else."

Jabbar Collins was convicted of murdering Abraham Pollack, a rabbi from the Williamsburg section of Brooklyn, and spent the next 15 years in prison. But he eventually gained his freedom through a rare federal petition in 2010, one asserting that prosecutors and police had invented, distorted and withheld evidence in his case. And now Collins is suing for $150 million, naming the individual prosecutors and detectives as defendants along with the city.

Based on an assortment of prosecution and government documents, as well as a number of sworn statements, Collins and his lawyer have asserted a staggering array of misconduct on Vecchione's part:

Vecchione, they charge, coerced an illiterate drug addict named Angel Santos to testify against Collins by physically threatening him and sending him to jail for a full week. Vecchione, they claim, persuaded a minor drug dealer named Adrian Diaz to testify by chasing him down in Puerto Rico and helping him avoid violating the terms of his probation. In court, they maintain, Vecchione suborned perjury; he concocted cover stories about how Collins' family threatened one or more witnesses. And while Collins spent a decade and a half in a state prison, Vecchione oversaw an effort to deny Collins access to the information that might have freed him.

In a series of filings in state and federal court, the Brooklyn District Attorney's office has refuted Collins' claims of misconduct. Officials say Oliva was promised no deal for his testimony; Santos took the stand voluntarily; Vecchione took no special steps to protect Diaz in exchange for his testimony; and the office handled Collins' requests for records in good faith.

Today, Vecchione, 63, remains a senior figure in the office of Brooklyn District Attorney Charles J. Hynes. Hynes has stood by him, heralding Vecchione as a principled lawyer and an effective prosecutor. Both Vecchione and Hynes refused to be interviewed for this article.

Benjamin Brafman and Alan Dershowitz, two prominent defense lawyers who say they have known Vecchione for years, cautioned against concluding Vecchione was guilty of what has been alleged.

"These allegations are based largely on unproved claims made in an adversarial complaint," the lawyers said in a letter. "They have not yet been subjected to the full truth testing mechanisms of a judicial proceding."

"In our view," they asserted, "Mr. Vecchione has not been found to have committed any judicial misconduct."

A review of Vecchione's career shows that he has been a lightning rod for criticism for years. In a 1993 murder case, Vecchione was accused of withholding a cooperation agreement between himself and a key witness. State judges have chastised him for over-the-top behavior in court. Some defense lawyers, judges and former colleagues have said Vecchione is an all-too-willing lieutenant to Hynes, a loyalist interested in making headline-producing cases and then winning them at all costs.

Vecchione's aggressive pursuit of Clarence Norman, the onetime Brooklyn political kingpin, failed to produce what the district attorney's office most hoped it would 2014 evidence that judgeships were for sale in Brooklyn.

Vecchione tried to prosecute a former FBI agent for helping arrange the murders of gangsters, only to have the case fall apart in embarrassment when it was revealed that Vecchione's chief witness was disastrously unreliable.

And just last year, a prosecutor leading a sex trafficking unit overseen by Vecchione resigned amid accusations that she had withheld a victim's recantation in a high-profile rape case.

For many legal experts, defense lawyers and advocates for the wrongly convicted, Vecchione is a prominent example of a troubling aspect of the American criminal justice system: Prosecutors who are implicated in misconduct often seem immune from meaningful punishment.

A recent investigation by ProPublica looking at more than a decade's worth of court records found that New York judges don't routinely refer prosecutorial misconduct to state panels that handle attorney discipline, even when they overturn convictions and upbraid prosecutors for constitutional violations. State disciplinary panels, when they do get referrals, rarely impose meaningful sanctions. The city's

district attorneys lack the will to punish their subordinates, perhaps out of fear of embarrassment. All told, ProPublica found 30 cases in which judges reversed convictions based on misconduct by New York City prosecutors. Just one of these prosecutors was publicly disciplined.

The pattern is much the same across the country. The Northern California Innocence Project reviewed 12 years of court opinions and found that California prosecutors were hardly ever disciplined after convictions were overturned because of the
ir misconduct.

Frederic Block, the federal judge presiding over Collins' civil lawsuit, has expressed something like amazement at Hynes' unwillingness to sanction Vecchione.

"I'm just puzzled why the district attorney did not take any action against Vecchione," Block said in court last fall. "To the contrary, he seems to ignore everything that happened. And an innocent man has been in jail for 16 years."

Hynes appears more willing to investigate detectives who might have helped make bad cases. Earlier this month, his office said it would review 50 murder cases handled by a single retired Brooklyn homicide detective. The action came after Hynes supported the release of a man who had been wrongly convicted based on the work of the detective, Louis Scarcella. So far, there's been no indication that Hynes' review of that case, or the larger case review, will extend to the prosecutors who investigated side by side with Scarcella for years, attending the same possibly suspect lineups, accepting the now supposedly dubious confessions, vouching for the witnesses Scarcella helped identify.

Collins' lawyer, Joel Rudin, is not at all surprised. Rudin has a long record of holding the city's prosecutors accountable. He's won millions of dollars in settlements from

the city for wrongfully convicting people, and maintains a long list of cases in which prosecutors have broken ethics rules to win convictions, all without disciplinary sanctions. Often those prosecutors have been promoted after state and federal judges have excoriated their conduct.

Rudin’s allegations against Vecchione and the office he works for are built on a formidable assortment of depositions, prison records, sworn affidavits and a review of state appellate court records. Rudin is scheduled to depose Vecchione on June 14.

Jabbar Collins 2014 guilty or not 2014 never got a fair trial. Two federal judges have declared it so. Both have been unsparing in condemning the conduct of Vecchione. Block, who is handling the civil lawsuit, has said in open court that he’s eager to dig deeper.

“This was horrific behavior on the part of Vecchione,” Block said. “We are going to have a civil proceeding, and all of this is going to be uncovered. I kid you not.”

Hynes, meanwhile, does not seem outwardly concerned about Vecchione’s record, or any damage it might have done to his office. As he runs for a seventh term, Hynes has agreed to have his office be the subject of a prime-time CBS television show, “Brooklyn DA.”

A Second Coming

Brooklyn in the early 1990s was rife with racial tension, particularly between the borough’s large Jewish and African-American populations. The conflict was most visible in Crown Heights, where in 1991 the mutual suspicions erupted in several days and nights of unrest.

The newly elected Brooklyn District Attorney, Charles “Joe” Hynes, quickly found himself on the hot seat. The Jewish vote

had helped him win office, but he had reason to fear losing that support: In October 1992, his prosecutors failed to convict a 16-year-old black man named Lemrick Nelson for chasing down a 29-year-old rabbinical student and stabbing him to death during the 1991 disturbances. Hynes' handling of the case eventually became the subject of a damning state critique.

Under fire, Hynes wound up benefiting from the work of a prosecutor recently returned to his ranks. Mike Vecchione 2014 who had begun his career in the Brooklyn District Attorney's office 15 years earlier, followed by a career as a defense lawyer 2014 had come back to the office at Hynes' urging. Vecchione, a seasoned trial lawyer, was soon made chief of Hynes' homicide bureau, taking on the most sensitive cases involving Jewish victims.

There were more than a few, and Vecchione consistently won convictions.

There was the 1992 case of 15-year-old Tziporah Yagodayev, strangled to death on the Williamsburg Bridge. Vecchione proved that a drug-addicted thief named Raymond Vargas was the killer, sending him away for 25 years to life. Later that year, a 37-year-old Hasidic mother died after being stabbed more than 35 times during a botched robbery. Vecchione won a murder conviction by showing that the defendant's palm matched a bloody handprint found at the crime scene. When Vecchione emerged from the courtroom, he got a hero's welcome from a group of overjoyed Hasidic women.

"He's very smooth and confident in the courtroom," said Alan Vinegrad, a former U.S. attorney for the Eastern District of New York, who once helped prosecute a kidnapping case with Vecchione. "He's an excellent trial attorney. He had a great rapport with witnesses and could talk to real people in a real way."

Vecchione, who had grown up in the Prospect Heights neighborhood of Brooklyn, first came to work in the office in 1973 when Eugene Gold was the district attorney. He had gone to St. John's University, and graduated as part of the first class of Hofstra University's law school. He then took a job as a junior prosecutor.

His illusions of legal grandeur, however, were roughed up a bit on his very first day in criminal court.

"I was so proud, standing right in front of the bench, wearing my brand new suit," Vecchione wrote in a 2009 book about his role in a famous police corruption case. "I was officially part of the great American tradition of jurisprudence. And then the judge, wearing the solemn robes of his office, cleared his throat, opened a top drawer in his desk, and spit right into it. And then closed the drawer. Well, so much for majesty."

Vecchione said in the book that his first major case was a mob murder, and winning it meant more than anything to him. In a closed office late at night, preparing for trial, Vecchione said he came across a report that called into question the integrity of his main witness.

"It would have been absolutely nothing for me to take that report and tear it up or just throw it away," Vecchione wrote. "No one would have known the difference. Not one person. I would be lying if I said the prospect of getting caught didn't enter my mind. It did."

Vecchione said he kept the report in the file and went to trial. He lost.

"One lie leads to another and another and another," Vecchione said in explaining his decision. "And then the whole house of cards falls down."

In the coming years, Vecchione won dozens of cases. Cases with

loads of evidence, and cases with less than overwhelming proof.

“He had a passion for trying cases. He was very aggressive,” recalled Tommy Dades, a retired New York City detective who worked for years with Vecchione and who collaborated with him on the 2009 book. “Other prosecutors would want a video of the guy with a gun doing the shooting. Mike would say, ‘Tommy, get me a case, and we’ll try it. Corroborate it, and we’ll try it.'”

After a decade in the office, Vecchione left to start his own practice, and he proved to be a respected defense lawyer, too. One of his more noteworthy accomplishments came in a murder case involving a battered woman who killed her abusive husband by setting him on fire with cleaning fluid. The woman was found guilty of a lesser charge 2014 criminally negligent homicide 2014 and spared prison time.

Back for a second stint in the district attorney’s office, and piling up noteworthy triumphs, those who worked alongside Vecchione said his confidence only grew.

“Even back in the ’70s, he looked at himself as a tough guy, a take-no-prisoners kind of guy,” said one Brooklyn judge. “But at the time, nobody knew where he’d end up.”

Prosecutors live in the rough-and-tumble world of investigating often terrible crimes, and confronting the people who commit them. Deception, a bit of intimidation, the patience to wait out reluctant witnesses or suspects 2014 much of it is
condoned, even admired.

But some people in and around the Brooklyn District Attorney’s office in the 1990s, even fans of Vecchione, became wary of his ambition. They said they noted an emerging arrogance, and a habit of discarding friends and colleagues as he climbed in Hynes’ esteem.

“Mike, years ago, was a humbler guy, but when Hynes brought him back, that was the turning point,” said Dades, the retired detective. “That was when his ego started to get the better of him.”

‘I Refused to Testify’

Vecchione, by his own account, certainly exuded self-assurance when, early in 1994, he took over the investigation into the murder of a 35-year-old rabbi in Williamsburg. Shortly before noon on Feb. 6, 1994, Abraham Pollack was found crumpled in an apartment building hallway, oozing blood from six bullet wounds. Just moments earlier, Pollack, the father of nine, had been walking that hallway, collecting rent from his tenants.

When a homeless handyman living in the basement of the building heard gunshots, he ran to tackle the gunman, and tried to slash him with a knife. The handyman, Paul Avery, lost the tussle, badly, and ended up with two bullets in his body 2014 one in his leg, another in his chest.

The killing stoked fear in the tight-knit Hasidic community. Early reports suggested a black man had been the assailant. Detectives hit the streets. And Mike Vecchione took charge.

In a sworn statement the district attorney’s office filed in state court years later, Vecchione declared that nothing of significance happened in the Pollack investigation without his knowledge and approval.

The investigation into Pollack’s murder was a couple of weeks old when, just past midnight on March 2, 1994, Edwin Oliva, high on crack or heroin or both, was brought into an interrogation room in the 90th Precinct in Williamsburg.

Oliva, in addition to a drug habit, had a lengthy rap sheet: First arrested at 17, he had, by age 28, been in and out of jail for most of his adult life. He was into stickups,

burglaries, car thefts. When he got arrested, he typically pleaded guilty, did a short term behind bars 2014 a year, maybe two 2014 and then went right back to life on the street.

Inside the precinct that night, Oliva thought he'd be taking another routine trip through the revolving door of the New York justice system. He'd been picked up for yet another robbery. But this time, Brooklyn detectives Vincent Gerecitano and Jose Hernandez wanted to talk about something else. Oliva's latest robbery had taken place in the dead rabbi's building. The detectives pressed Oliva for any information about the murder there weeks before.

Detectives had initially been interested in two brothers from the neighborhood as the possible culprits. They were well-known local thugs and drug dealers, and under active investigation for a separate robbery. A witness said she saw one of the brothers bleeding heavily not long after the murder, raising suspicions that it was he who had been slashed by the handyman the day of Pollack's murder.

The police said they had put out an alert immediately after the killing asking hospitals to report anyone being treated for a stab wound. Detectives soon talked to members of the brothers' family, but they had denied any involvement and then got lawyers.

Not long after, police received a telephone tip from an anonymous caller saying that a young man named Jabbar Collins had killed Pollack. The focus of detectives and prosecutors turned quickly to Collins.

Collins lived in a nearby housing project and was a high school dropout who had been arrested once as a teenager for a robbery. He'd been treated as a youthful offender, and had no other record. He also, when first interviewed by police, said he had an alibi. He said he'd been at home at the time of Pollack's killing, cutting his brother's hair in his mother's

living room. His mother and girlfriend gave police statements backing him up.

Collins volunteered to participate in several police lineups. No one picked him out.

Yet when Oliva was in custody on March 2, the detectives began to ask insistently about Collins. Oliva, in sworn statements years later, said he told them the truth.

“I told detectives I knew Jabbar Collins for years, that we got high together,” Oliva said in a 2006 statement. He said he told police he’d heard Collins was “in trouble” concerning Pollack’s murder, but had no details.

“I told them I had no personal knowledge about it,” Oliva said.

But the detectives weren’t satisfied; Oliva was in the stationhouse for hours. Oliva said he began to feel sick, suffering from drug withdrawal. The police, he said, presented him with a narrative implicating Collins.

The detectives, who are named defendants in Collins’ lawsuit, could not be reached for comment. Arthur Larkin, senior counsel for the New York City Law Department, said the city “vigorously” disputed the allegation that detectives invented a statement for Oliva.

Oliva says that on that night in 1994, he at last succumbed to pressure. He signed a statement saying that he had overheard Collins and another man plot to rob Pollack days before the rabbi was killed. Oliva later said he signed it without so much as reading it.

Oliva pleaded guilty to the robbery he had been brought in on, and a year later was out of prison, living in a halfway house on a work release program. Collins was now going to trial, and Vecchione and Posner brought Oliva to their office. They

wanted him to tell a jury the details of the robbery plot.

Oliva says he was dumbfounded. He was shown his signed statement. He insisted he had been tricked.

“I told them I had no knowledge that Jabbar committed the murder,” Oliva said in his recent sworn statement. “I refused to testify.”

In short order, correction department records show, Oliva was back behind bars, his work release freedom a thing of the past.

“I was devastated,” Oliva said. “I realized that Vecchione and Posner were serious and could do whatever they threatened.”

Vecchione and the district attorney’s office have denied the claim; Posner died a decade ago. Vecchione has said he first met and interviewed Oliva the night before the trial. There was no intimidation or coaching, he has insisted. Collins’ trial lawyer, Vecchione has pointed out, knew Oliva wanted to be returned to the work release program, and asked him about it at trial.

Oliva, in the end, relented, and under questioning on the witness stand, he turned into Vecchione’s star witness. He said he, Collins and another man had been snorting heroin together in a housing project staircase when it was suggested that Pollack would be a good target for a robbery. Oliva said the third man in on the plot, Charles Glover, lived in Pollack’s building, and had helped persuade everyone that the crime would be fairly easy.

“You don’t even need a gun to do it. All you have to do is go over there to rob the man, take the money and just get out the building,” Oliva testified that Glover had said.

Oliva testified further that after Pollack was killed, Glover told him not to say a word about their involvement to anyone.

“He told me to shut up because I talked too much,” Oliva testified. “He had told me that Jabbar Collins had got rid of the gun. I don’t know where.”

Glover 2014 the man who, in Oliva’s telling, had helped hatch the robbery plan, and who lived in the very building where Pollack had been slain 2014 never testified at trial.

According to police records, Glover was interviewed by investigators two days after the shooting and said he had been in the building when it happened and had not been involved. There is no record
that police spoke with Glover after Oliva supposedly told investigators that Glover had been present for the planning of the robbery. Glover, who still lives in the same Brooklyn neighborhood, would not comment when reached this month.

Oliva, all these years later, has now signed another formal statement. He has done it on Collins’ behalf. And it has been submitted in federal court.

“During my testimony, I falsely accused Jabbar Collins of planning the robbery and of discarding the weapon,” the statement says. The assistant district attorneys “knew that I told them this was untrue.”

Loyalty Matters

Joe Hynes had been elected in 1990 as a professional prosecutor of integrity and courage. As a special state prosecutor, he had gained acclaim three years earlier by winning manslaughter convictions against three white teens who were part of a mob that savagely beat three black men in Howard Beach, Queens, leaving one man dead and another paralyzed.

But after his election, Hynes came to be criticized by some as just another political animal. He had populated his ranks with

highly paid assistants, and lost a handful of the office's most seasoned and respected prosecutors. Some of those who left said Hynes had a vengeful side, and that he rewarded loyalty above all else.

"He's another politician on the make, and his office is run in service to that," Alan Broomer, a former prosecutor in Manhattan and State Supreme Court Justice in Brooklyn told The New York Times in 1994. "He's used the office for his own ends."

In that office, Vecchione was a man on the rise, winning promotions and raises, and moving into Hynes' inner circle of strategists and confidants. His missteps did not seem to cost him. In 2001, in response to a Newsday reporter's persistent inquiry, Vecchione, the divorced father of two sons, publicly admitted that he had had an affair with a subordinate 2014 his trial partner on the Collins case, as it turned out. But his power in the office only increased.

Current and former Brooklyn prosecutors said in interviews that Vecchione had made clear to Hynes that if the boss wanted an indictment won and a case made, he was the man to do it.

Consider the case of Eric Jackson-Knight. In 1980, Jackson-Knight had been convicted of setting a Brooklyn supermarket on fire in what became one of the city's most notorious crimes. The fire killed six firefighters, provoking weeks of grief and recrimination. Jackson-Knight was sentenced to 158 years on six counts of murder.

But doubts about Jackson-Knight's guilt began to surface years later, and in 1987 the case took a stunning turn: A lawyer representing the families of the six dead firefighters seeking compensation for their loss determined that the fire had been accidental. The evidence was so clear to the lawyer, Bob Sullivan, that he agreed to help Jackson-Knight win his freedom. And in 1988, a state judge in Brooklyn overturned

Jackson-Knight's conviction.

Subsequent hearings to consider a retrial revealed a breathtaking assortment of misconduct by prosecutors that included concocting a false witness statement and concealing evidence that the fire had been accidental.

Nevertheless, Hynes, by then district attorney, decided in 1992 to retry Jackson-Knight. He was acquitted in 1994.

Even as that case was pending, Jackson-Knight could not seem to escape Hynes' crosshairs. In the early 1990s, Hynes indicted Jackson-Knight for a variety of crimes, from car theft to gun possession, sometimes prevailing and sometimes not.

In 1992, Hynes' office charged Jackson-Knight in a brutal attack: the rape and murder of a pregnant homeless woman in Coney Island. The development moved Supreme Court Justice Joseph Slavin to ask out loud in court: "Are you going to arrest this guy for every unsolved crime in Brooklyn?"

Vecchione took the case to trial.

The evidence against Jackson-Knight was far from overwhelming. Tests showed that his DNA didn't match semen in a used condom found at the scene of the crime. Vecchione's key witnesses were both drug-addicted prostitutes. One made the remarkable assertion under oath that she sold Jackson-Knight used condoms from her work with other clients so that he could cover his tracks when he raped women.

The other witness, Christine Maroney, fell apart on the witness stand, charging that prosecutors had kept her in a hotel, against her will, and coerced her to testify that she had seen Jackson-Knight rape the victim. Jackson-Knight was acquitted.

Hynes and Vecchione were not done. They took the rare step of

formally charging Maroney with perjury. When she was convicted, the judge in the case, who had suspicions about the prosecution from the start, instantly set aside the verdict.

Sullivan, the fire union lawyer who represented Jackson-Knight during the rape and murder trial, said he thought Vecchione was an effective lawyer. But perhaps a too obedient one.

“In my opinion, he was just taking marching orders from Hynes,” Sullivan said.

A Witness Goes to Jail

Angel Santos was working as a part-time employee at a furniture store next door to Pollack’s building the day the rabbi was killed. When police interviewed him days after the murder, Santos told them he had called 911 after his father-in-law, who lived above the store, heard gunshots. Santos said he saw a black man run past the store window.

The police eventually showed Santos an array of photographs of possible suspects that included Collins. Santos said Collins was the man he saw and later picked him out of a lineup.

About a year later, Vecchione wanted Santos to appear at trial and issued what is known as a “material witness” order to force Santos to retell what he had told police.

It didn’t go well.

Santos later said in federal court that he had confessed to a serious drug habit; he was high “basically 24/7.” He then said he would not testify.

Vecchione became enraged, Santos later testified. He threatened to hit Santos with a coffee table. He threatened to prosecute him for perjury.

Santos said he was scared, but still refused.

“That’s when they send me to jail,” Santos said.

Prosecutors can legally lock up reluctant witnesses. But there are certain requirements for doing so. They must bring the witness before a judge. And they must see that the witness has a lawyer.

In this case, Vecchione persuaded the judge overseeing Collins’ murder trial, Judge Francis X. Egitto, to grant a material witness order remanding Santos to “civil jail,” but no evidence has come to light showing that Santos was actually presented in court, much less given a lawyer. Indeed, a federal judge said she was convinced no such basic legal steps were taken.

Hynes and Vecchione insist all protocols were followed.

Santos, in any event, remained locked up.

A week elapsed. Vecchione then arranged for Santos to be brought back to his office. Finally, Santos agreed to testify.

Collins’ current lawyer, Joel Rudin, alleges that Vecchione needed to create a phony story about why Santos had been picked up and sent to jail in the first place.

Vecchione, records show, directed a paralegal in his office to prepare a “Threat Analysis” report showing that Santos had received anonymous phone calls from people warning him not to testify against Collins. One of the detectives on the case then filed a complaint report with the New York Police Department saying that Santos had received similar threats months before.

Santos took the stand against Collins. Vecchione told the jury Santos had been placed in “protective custody” because of the threats he’d received. And Vecchione underscored in the courtroom that Santos and the others who had testified against Collins had appeared voluntarily.

“There is nothing in the evidence, there is nothing in the record, there is nothing directl
y brought out by the defense, there is nothing impliedly brought out by the defense that suggests that any of those witnesses had any reason to come in here and lie about Jabbar Collins,” Vecchione told the jury. “Nothing.”

Sixteen years later, Santos took the stand in a different proceeding 2014 the federal court consideration of Collins’ bid for freedom.

He said he had never wanted to testify against Collins. He’d told prosecutors he had identified Collins at a time when he was on drugs all day, every day. He said, unequivocally, he’d never been threatened by anyone about testifying.

Except, he said, for Vecchione.

Win, Baby, Win

Conviction rates are a concern for every district attorney. They are one measure of an office’s success in fighting crime. According to people who worked for Hynes, conviction rates were a major factor in determining raises and promotions.

“Joe was the kind of guy who made it immediately clear that statistics were important and you were accountable for your conviction rate. Every Bureau Chief had to regularly report convictions and pleas and there was certainly a keen desire to meet target rates,” said one former Brooklyn prosecutor, who did not want to be quoted by name because of ongoing work in the courts.

In 1995, 30 prosecutors in Hynes’ office were fired.

“Those of us that were asked to leave left because our stats were not what they wanted them to be,” said one of the prosecutors who were forced out.

Vecchione never had issues with conviction rates. For Vecchione, summations were his specialty, emotional performances that helped win over juries. He said in his book that he loved it when he left people in the courtroom in tears, and he was unembarrassed about crying himself.

Others, including some state judges, found Vecchione's performances improper, even abusive.

In one case, a state appeals court, while upholding the 1996 conviction of two young men in the killing of a New York police officer, said Vecchione's theatrics in closing arguments might well have been improper. In his summation, Vecchione had called the defense's argument "a fairy tale," and told the jury it would be "making a mockery of this system" if it credited any aspect of one defendant's testimony. Vecchione then read aloud the "Police Officer's Prayer," and urged the jury to convict so that the officer's rest with the Lord would be "long and peaceful."

But the state court's modest rebuke of Vecchione was nothing like what was to come: Vecchione was accused by a man he'd convicted of armed robbery of having withheld a cooperation agreement with a key witness at trial. The accusation resulted in a rare federal court hearing, during which Vecchione, under oath, was pressed about the allegation.

Vecchione insisted on the stand that, while he had talked with the witness about a cooperation deal for his testimony, there was no written agreement until after the trial. He insisted he had no obligation to disclose anything about a cooperation agreement.

Bruce Barket, the defendant's lawyer, was at the hearing and said Vecchione2018s attitude "seemed to be disdainful of the entire process," as if asking, "How dare you ask me questions."

The federal judge conducting the hearing, Edward Korman,

certainly seemed unimpressed with Vecchione's account. The judge had interviewed the witness, who had been in prison before and, before testifying for Vecchione, was facing gun and rape charges. The witness had wound up with an extremely lenient sentence for a violent and repeat offender.

The judge called the witness "a pretty shrewd piece of work," and said he doubted the witness would have testified at all without a promise of a deal.

"The notion that he wouldn't ask for anything," Korman said in court, "that he would affirmatively say he didn't want anything, strikes me as being almost totally inconsistent with his personality."

Ultimately, Vecchione and the district attorney's office folded before Korman could rule on whether the convicted robber should go free. While conceding no wrongdoing, the office agreed to release the man, who they suspected of being involved in at least three murders.

False Threats, Damaging Testimony

As Vecchione prepared to try Jabbar Collins, he was determined to enlist every possible witness. Which is why in early 1995 he set off for Puerto Rico to track down Adrian Diaz.

A year before, Diaz, a small-time drug dealer who had been working as a grocery store clerk, had given police some promising information: He'd identified Collins as the man he'd seen exiting Pollack's building with a gun in his hand the day of the murder.

But Diaz had since moved to Puerto Rico, in violation of the terms of his probation. Vecchione wanted to bring him back.

Diaz, based on his statement to police, could be critical. Diaz was 19 and working at a Western Beef grocery store when he reached out to police. Records show that Diaz, among other

things, was interested in the possibility of reward money. Gerecitano and Hernandez, the two detectives on Pollack's murder, soon showed up at the Western Beef store. The detectives, records show, first tried to clear up the issue of reward money. They told Diaz that the police department did not pay rewards, but that community groups often did if the information provided helped lead to an arrest and conviction.

Diaz then told the detectives that he had heard gunshots the day of the murder and seen someone he knew from the neighborhood come out of the building. That person, as he fled, seemed to be trying to hide a gun in his waistband. Diaz picked Collins out from a number of photographs, and again in a lineup.

Vecchione, preparing to find Diaz in Puerto Rico, went to court and submitted an affidavit stating that Diaz had fled the country because he had been threatened by people involved in the Collins case. At that point, Vecchione had never met Diaz. No evidence has surfaced that recorded anything about threats against Diaz.

Vecchione ultimately led a small team to Puerto Rico, tracked down Diaz and persuaded him to fly back to New York and testify. On March 10, 1995, Diaz testified that Collins was the man he saw exiting Pollack's building the day of the murder. But his testimony concerning what Collins was wearing differed markedly from the testimony of other witnesses. It differed, in fact, from what Diaz had said to police a year earlier.

There was no mention of threats against Diaz. No talk of intimidation.

After the trial, Vecchione wrote a letter notifying the Probation Department for the first time that Diaz had returned to New York to testify.

Vecchione's letter said that Diaz had fled to Puerto Rico

because “the perpetrator of the crime and his family and friends” threatened “that anyone who testified against the defendant would be killed” and had to return there for his safety.

That, Diaz now says, was untrue.

“I moved to Puerto Rico without the permission or knowledge of the Probation Department,” Diaz said in a sworn statement that is now part of Collins’ lawsuit. “I moved for personal reasons having nothing to do with the Collins case. I was not threatened by anyone connected to Mr. Collins before I moved to Puerto Rico and fear for my safety played no part in my decision to move to Puerto Rico.”

Expanded Powers

Vecchione’s ascent in Hynes’ office took its most dramatic turn in 2001 when he was promoted to lead the office’s high-profile Rackets bureau. He would oversee a wide array of organized crime, political and other kinds of cases and conspiracies.

To his predecessor in the job, Vecchione’s appointment was warranted.

“I know Michael Vecchione to be an honest, hard-working, dedicated prosecutor with outstanding trial and investigatory skills,” Dennis Hawkins, who ran the Rackets bureau prior to Vecchione, said in an emai
l.

But some of Vecchione’s critics and colleagues found his new title worrisome: Vecchione’s influence, seemingly unchecked, was now only being enhanced.

“He was a guy confident of his status in the office, who felt like he was untouchable, who could do no wrong, and who had the full support of Joe,” said a former senior Brooklyn

prosecutor who has known Vecchione for two decades and who spoke on condition of anonymity because they were now a criminal defense lawyer in New York.

Vecchione's first big case in his new job was against then Brooklyn Democratic Party Leader Clarence Norman. Hynes, with considerable reason, had declared that judicial elections in Brooklyn were a sham, complete with rigged outcomes orchestrated by the Brooklyn political machine.

Vecchione empaneled a grand jury. Norman would be charged multiple times, and tried in four separate cases. But the cases never involved the sale of judgeships. And in the end, the "corruption" proved against Norman 2014 steering campaign work for judges to certain consultants, improperly billing the State Assembly for $5,000 2014 struck many as fairly pedestrian. Former Mayor Ed Koch was one of them.

"While I disagree with Clarence Norman on every political fact of life, and certainly on the way judges are appointed in Brooklyn, Joe Hynes got into the case expressing the belief that Norman had some part in a corrupt process," Koch said after the initial indictments. "Instead, he comes up with a cockamamie indictment that he took a $5,000 check made out to the county Democratic organization and was double-dipping on reimbursements for gasoline."

Norman went to prison; Hynes claimed unqualified triumph, and credited Vecchione and the office with having the rare courage to go after the borough's political powerbrokers.

Paul Schoeman, a former assistant U.S. Attorney, who represented Norman and won him an acquittal in one of four jury trials, said it was clear Hynes had a lot invested in the prosecution because he "assigned his top lieutenant to handle the case personally."

Norman, now out of prison, said the case "was politically important to Joe Hynes," but he isn't so sure Hynes was

actually the man steering it.

“I wouldn’t be surprised if [Vecchione] was the driving force behind the whole thing. You see his M.O. You see how he works.”

In March 2006, Vecchione set his sights on another powerful target: a former FBI agent named R. Lindley DeVecchio. Vecchione charged DeVecchio with having provided critical confidential information to a mob informant, Greg Scarpa, who, armed with the information, then killed several rivals.

“The most stunning example of official corruption I have ever seen,” Hynes said after Vecchione had won murder indictments against DeVecchio.

The U.S. Justice Department, it turned out, had investigated similar allegations against DeVecchio a decade earlier, and found that while Scarpa killed a lot of people while he was an informant, DeVecchio never helped him do it.

Still, Vecchione went forward, building his case on the testimony of Scarpa’s mistress, a woman named Linda Schiro. Schiro, by numerous accounts, was an unstable woman, furiously trying to land a book deal about her life as a mob mistress.

DeVecchio, in his own book on his case, said he knew Schiro could not stand up as a witness. And he had nothing but disdain for the prosecutor who put her at the center of his case.

“Dark-skinned, vacant-eyed, with an aggressive, bulky body topped by a moon face and a graying crew cut,” DeVecchio wrote of Vecchione. “He always seemed to be on the verge of toppling forward. He had one of those rock-star beards that never grows more than a quarter inch and endows the wearer with a degenerate look. Someone should tell him it looks ridiculous on a middle aged man with a potbelly.”

At trial, Schiro gave detailed descriptions of how DeVecchio would effectively assist in the murder of mobsters. Her star turn, however, was short-lived. The day after Schiro testified, Tom Robbins, a respected New York journalist, produced tapes of interviews with Schiro from years earlier that undercut her claims.

Schiro was effectively destroyed as a witness. Vecchione's case soon crumbled completely, with the office having to drop all charges against DeVecchio.

Mark Bederow, a former Manhattan assistant district attorney who represented DeVecchio, said Vecchione had turned over records that discredited Schiro before trial.

"It is inconceivable that they brought this case," Bederow said in an email. "The star witness was known to be a compulsive liar."

About a week after trial, Vecchione's onetime police partner, New York detective Tommy Dades, also told the news media that he and Vecchione had known for years that Schiro had given inconsistent stories about the murder accusations.

Vecchione denied the claim. Hynes, for his part, tried to downplay the embarrassment. For the office and Vecchione, he said, the failed prosecution was "nothing more than a bump in the road."

And indeed, for Vecchione, that's all it was. Vecchione still heads the Rackets Bureau, which expanded three years ago to include a sex trafficking unit. His salary of $189,000 is among the highest in the office.

And, it turns out, Vecchione was at the center of the decision to cooperate with CBS's plans for a six-part documentary series on the Brooklyn District Attorney's office. In a court filing, a spokesman for the office said Vecchione was a party to negotiations over the nature and terms of the arrangement.

Richard Huff, a spokesman for CBS, would not say if Vecchione will be featured in the series, which premiers May 28, and would not discuss the controversy surrounding his role in the Collins case.

“These hard-charging prosecutors have larger-than-life personalities both inside the courtroom and out,” CBS said in a March press release. “They’re eccentric and living right on the edge.

“We are allowed to watch their successes and their failures 2014 it’s immediate, compelling and often heartbreaking.”

The Long Escape

The sentencing of Jabbar Collins took place on the morning of April 3, 1995, and it began with him asking the judge to set aside the guilty verdict because he had been denied adequate counsel. Collins, acting as his own lawyer, cited the proper motion language; he referenced his Sixth Amendment rights; he noted that he had been identified in lineups without a lawyer present; he said his lawyer had prevented him from presenting his alibi witnesses.

Vecchione, present for the sentencing, derided the young man’s appeal.

“Nothing more than boilerplate probably gotten from a jailhouse lawyer,” he said.

Judge Egitto wasted little time ruling. “The motion in all respects is denied,” he held.

Rabbi Pollack’s widow went next.

“The defendant sitting here in this courtroom is not a destroyer of one life,” Rivka Pollack told the court. “He is a destroyer of several lives. He destroyed the love of the father of my children. He destroyed the love of my dear

husband.”

“I wish the defendant here, I wish my husband’s murderer, a very, very long, long life in jail,” she continued. “He forfeited the right to live as a normal, functioning human being. He has no right to see the sunshine. He has no right to walk in the park, to hear children.”

When Judge Egitto pronounced a sentence of 34 years to life, he said his only regret was that he could not sentence Collins to hard labor.

Collins, himself the father of three young children, entered Green Haven Correctional Facility, 45 miles north of New York City. Once inside, he immediately set his mind on getting out.

He wanted, first and foremost, access to the formal records of his prosecution. He wanted to exa
mine police statements. He wanted to check if there had been cooperation agreements with the witnesses who had testified against him. He wanted to know if any of the witnesses had been held against their will, and, if so, if there were records to prove it. He requested material witness orders, subpoenas and other documents.

Rejection only fueled his persistence, and rejection came often. His requests for the basic underlying records of his trial were repeatedly denied. He was often told the records he was asking for didn’t exist. On other occasions, he was told “to the extent that such documents even exist, they are not in the possession of the Brooklyn District Attorney’s Office.”

Collins and his lawyer, Rudin, have alleged in court papers that the denial of this material was part of a concerted effort overseen by Vecchione.

Over a period of more than 10 years, Collins broke through the wall of denials. He managed to communicate directly with Oliva, the man who had put Collins at the center of a murder

plot. Oliva four years later signed an affidavit detailing the circumstances of his false testimony.

Collins also obtained a full audiotape of 911 calls the day of the murder that showed that Santos had never actually spoken with a 911 dispatcher. And, in an astounding display of resourcefulness, Collins tracked down Diaz, another one of his accusers, using a ruse to gain access to Diaz's legal record and mining that information to determine where Diaz was living. Posing as an investigator for the Brooklyn District Attorney's office, Collins secretly recorded a telephone conversation with Diaz in which Diaz told the complete story of how Vecchione got him to testify. He said he had never been threatened by anyone associated with Collins.

In 2006, Collins, joined by Rudin, filed an appeal to state judges, claiming he had been the victim of prosecutorial misconduct.

Monique Ferrell, who had worked with Vecchione on the Norman and DeVecchio cases, was assigned to represent the Brooklyn District Attorney's office and filed one indignant brief after another dismissing Collins' claims. She obtained affidavits from Vecchione, who insisted there had been no wrongdoing, and that he alone made all decisions in the case. There had been no deals. No one had recanted before the trial. Nothing had been withheld. No witness had been locked up as a means of compelling false testimony. Instead, Ferrell said, Collins was not only a murderer, but a clever jailhouse lawyer, scheming to acquire evidence through "frauds on the court."

A state judge accepted the office's defense, denying Collins so much as a hearing. "Incredible," the judge wrote of Collins' arguments. "Fanciful." "Without merit."

But Collins didn't give up. In April 2008, he filed a habeas corpus petition in federal court as a last-ditch effort to have the case reconsidered. While the appeal awaited review,

Collins hatched an idea: He would file a request for much of the information he'd been seeking for years, but he would do so under another inmate's name. Remarkably, the method worked. Collins received documents he'd been denied for over a decade, showing that Vecchione forced Santos to testify by filing a material witness order and taking him into custody.

Federal Judge Dora Irizarry granted a hearing to review Collins' claims and Vecchione's conduct. She also directed the district attorney's office to share documents with Rudin. Soon he obtained hundreds of pages of records that the office previously denied Collins or told him didn't exist.

And then, in a critical development, one of the detectives in the case disclosed that Oliva had, in fact, recanted prior to trial, and that he had made the disavowal in the presence of prosecutors.

Hynes offered to retry Collins in state court within 90 days. Irizarry refused. In June 2010, days before Vecchione was scheduled to explain his conduct to the judge, Hynes authorized the dismissal of the case against Collins.

Still, Brooklyn officials insisted no one had done anything wrong. And they insisted Jabbar Collins was guilty.

Irizarry, in a brutally frank rebuke, called the conduct by Hynes' office sad and shameful. She made clear she found Vecchione's continued claim that he didn't know about Oliva's recantation beyond belief. She picked apart the office's handling of witnesses who were clearly under the influence of drugs at the time they gave their ostensibly damning information. She questioned what kind of training prosecutors received in Hynes' office.

"And we talk about justice," Irizarry exclaimed from the bench. "It's very difficult to talk about justice in the situation we're confronted with now."

“Whether or not Mr. Collins is guilty or not guilty is not really the issue here,” Irizarry added. “Because what is the issue is whether or not he was deprived of his constitutional rights during that trial, and it should have been up to that trial jury to make the determination of the facts based on everything that it should have considered. And it was not given that opportunity.”

Collins, who today works as a paralegal in Rudin’s law firm, was in court as Irizarry spoke. She asked if he had anything he wanted to say. Collins spoke of how his three children had lost their father for 16 years, and his mother her son. He spoke of his frustration with a prosecutor’s office that made him work on his own for 11 years just to get basic information about his case. And then he expressed gratitude.

“I just want to thank the court for its time,” he said in closing. “For finally giving me my day in court.”

The 182 Percent Loan: How Installment Lenders Put Borrowers in a World of Hurt

by Paul Kiel ProPublica, May 13, 2013, 9 a.m.by Paul Kiel and Krista Kjellman Schmidt, ProPublica, May 13

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One day late last year, Katrina Sutton stood at a gas pump outside Atlanta and swiped her debit card. Insufficient funds. But that couldn’t be. She’d been careful to wait until her

$270 paycheck from Walmart had hit her account. The money wasn’t there? It was all she had. And without gas, she couldn’t get to work.

She tried not to panic, but after she called her card company, she couldn’t help it. Her funds had been frozen, she was told, by World Finance.

Sutton lives in Georgia, a state that has banned payday loans. But World Finance, a billion-dollar company, peddles installment loans, a product that often drives borrowers into a similar quagmire of debt.

World is one of America’s largest providers of installment loans, an industry that thrives in at least 19 states, mostly in the South and Midwest; claims more than 10 million customers; and has survived recent efforts by lawmakers to curtail lending that carries exorbitant interest rates and fees. Installment lenders were not included in a 2006 federal law that banned selling some classes of loans with an annual percentage rate above 36 percent to service members 2014 so the companies often set up shop near the gates of military bases, offering loans with annual rates that can soar into the triple digits.

Installment loans have been around for decades. While payday loans are usually due in a matter of weeks, installment loans get paid back in installments over time 2014 a few months to a few years. Both types of loans are marketed to the same low-income consumers, and both can trap borrowers in a cycle of recurring, expensive loans.

Installment loans can be deceptively expensive. World and its competitors push customers to renew their loans over and over again, transforming what the industry touts as a safe, responsible way to pay down debt into a kind of credit card with sky-high annual rates, sometimes more than 200 percent.

And when state laws force the companies to charge lower rates,

they often sell borrowers unnecessary insurance products that rarely provide any benefit to the consumer but can effectively double the loan's annual percentage rate. Former World employees say they were instructed not to tell customers the insurance is voluntary.

When borrowers fall behind on payments, calls to the customer's home and workplace, as well as to friends and relatives, are routine. Next come home visits. And as Sutton and many others have discovered, World's threats to sue its customers are often real.

The Consumer Financial Protection Bureau, the new federal agency charged with overseeing consumer-finance products and services, has the power to sue nonbank lenders for violating federal laws. It could also make larger installment lenders subject to regular examinations, but it hasn't yet done so. Installment companies have supported Republican efforts to weaken the agency, echoing concerns raised by the lending industry as a whole.

The CFPB declined to comment on any potential rule-making or enforcement action.

Despite a customer base that might best be described as sub-subprime, World comfortably survived the financial crisis. Its stock, which trades on the Nasdaq under the company's corporate name, World Acceptance Corp., has nearly tripled in price in the last three years. The company services more than 800,000 customers at upward of 1,000 offices in 13 states. It also extends into Mexico, where it has about 120,000 customers.

In a written response to questions for this story, World argued that the company provides a valuable service for customers who might not otherwise qualify for credit. The loans are carefully underwritten to be affordable for borrowers, the company said, and since the loans involve set

monthly payments, they come with a “built-in financial discipline.”

The company denied that it deceives customers, saying that it trains its employees to tell borrowers that insurance products are voluntary and that it also informs customers of this in writing. It said it contacts delinquent borrowers at their workplace only after it has failed to reach them at their homes and that it resorts to lawsuits to recoup delinquent payments in accordance with state laws.

“World values its customers,” the company wrote, “and its customers demonstrate by their repeat business that they value the service and products that World offers.”

The installment industry promotes its products as a consumer-friendly alternative to payday loans. Installment loans are “the safest form of consumer credit out there,” said Bill Himpler, the executive vice president of the American Financial Services Association, of which World and other major installment lenders are members.

About 5 percent of World’s customers, approximately 40,000, are service members or their families, the company said. According to the Defense Department, active-duty military personnel and their dependents comprise about 1 percent of the U.S. population.

The Starter Loan

Back in August 2009, Sutton’s 1997 Crown Victoria needed fixing, and she was “between paychecks,” as she put it. Some months, more than half of her paycheck went to student-loan bills stemming from her pursuit of an associate degree at the University of Phoenix. Living with her mother and grandparents saved on rent, but her part-time job as a Walmart cashier didn’t provide much leeway. She was short that month and needed her car to get to work.

She said she happened to pass by a World Finance storefront in a strip mall in McDonough, Ga. A neon sign advertised “LOANS,” and mirrored windows assured privacy. She went inside.

A credit check showed “my FICO score was 500-something,” Sutton remembered, putting her creditworthiness in the bottom 25 percent of borrowers. “But they didn’t have no problem giving me the loan.”

She walked out with a check for $207. To pay it back, she agreed to make seven monthly payments of $50 for a total of $350. The loan papers said the annual percentage rate, which includes interest as well as fees, was 90 percent.

Sutton had received what World employees call a “starter loan.” That’s something Paige Buys learned after she was hired to work at a World Finance branch in Chandler, Okla., at the age of 18. At that point, she only had a dim notion of what World did.

At 19, she was named branch manager (the youngest in company history, she remembered being told), and by then she had learned a lot. And the more she understood, the more conflicted she felt.

“I hated the business,” she said. “I hated what we were doing to people. But I couldn’t just quit.”

The storefront, which lies on the town’s main artery, Route 66, is very much like the one where Sutton got her loan. Behind darkened windows sit a couple of desks and a fake tree. The walls are nearly bare. Typical of World storefronts, it resembles an accountant’s office more than a payday loan store.

Buys said any prospective borrower was virtually guaranteed to qualify for a loan of at least $200. Low credit scores are common, she and other former employees said, but World teaches its employees to home in on something else: whether at least

some small portion of the borrower’s monthly income isn’t already being consumed by other debts. If, after accounting for bills and some nominal living expenses, a customer still has money left over, World will take them on.

In its written response, World said the purpose of its underwriting procedures was to ensure that the borrower has enough income to make the required payments.

With few exceptions, World requires its customers to pledge personal p
ossessions as collateral that the company can seize if they don’t pay. The riskier the client, the more items they were required to list, former employees say.

Sutton offered two of her family’s televisions, a DVD player, a PlayStation and a computer. Together, they amounted to $1,600 in value, according to her contract. In addition, World listed her car.

There are limits to what World and other lenders can ask borrowers to pledge. Rules issued in 1984 by the Federal Trade Commission put “household goods” such as appliances, furniture and clothing off limits 2014 no borrower can be asked to literally offer the shirt off his back. One television and one radio are also protected, among other items. But the rules are so old, they make no mention of computers.

Video game systems, jewelry, chainsaws, firearms 2014 these are among the items listed on World’s standard collateral form. The contracts warn in several places that World has the right to seize the possessions if the borrower defaults.

“They started threatening me,” a World customer from Brunswick, Ga., said. “If I didn’t make two payments, they would back a truck up and take my furniture, my lawn mower.” (In fact, furniture is among the items protected under the FTC rule.) The woman, who asked to remain anonymous because she feared the company’s employees, was most upset by the prospect

of the company taking her piano. She filed for bankruptcy protection last year.

In fact, former World employees said, it was exceedingly rare for the company to actually repossess personal items.

“Then you’ve got a broken-down Xbox, and what are you going to do with it?” asked Kristin, who worked in a World branch in Texas in 2012 and, from fear of retaliation, asked that her last name not be used.

World supervisors “would tell us, ‘You know, we are never going to repossess this stuff’ 2014 unless it was a car,” Buys said.

World acknowledged in its response that such repossessions are rare, but it said the collateral played a valuable role in motivating borrowers. “World believes that an important element of consumer protection is for a borrower to have an investment in the success of the transaction,” the company wrote. When “borrowers have little or no investment in the success of the credit transaction they frequently find it easier to abandon the transaction than to fulfill their commitments.”

‘Real Gibberish’

Sutton’s loan contract said her annual percentage rate, or APR, was 90 percent. It wasn’t. Her effective rate was more than double that: 182 percent.

World can legally understate the true cost of credit because of loopholes in federal law that allow lenders to package nearly useless insurance products with their loans and omit their cost when calculating the annual rate.

As part of her loan, Sutton purchased credit life insurance, credit disability insurance, automobile insurance and non-recording insurance. She, like other borrowers ProPublica

interviewed, cannot tell you what any of them are for: “They talk so fast when you get that loan. They go right through it, real gibberish.”

The insurance products protect World, not the borrower. If Sutton were to have died, become disabled, or totaled her car, the insurer would have owed World the unpaid portion of her loan. Together, the premiums for her $200 loan total $76, more than the loan’s other finance charges.

The insurance products provide a way for World to get around the rate caps in some states and effectively to charge higher rates. Sutton’s stated annual percentage rate of 90 percent, for example, is close to the maximum that can legally be charged in Georgia.

ProPublica examined more than 100 of the company’s loans in 10 states, all made within the last several years. A clear pattern developed: In states that allowed high rates, World simply charged high interest and other finance fees but did not bother to include insurance products. For a small loan like Sutton’s, for example, World has charged a 204 percent annual rate in Missouri and 140 percent in Alabama, states that allow such high levels.

In states with more stringent caps, World slapped on the insurance products. The stated annual rate was lower, but when the insurance premiums were accounted for, the loans were often even more expensive than those in the high-rate states.

“Every new person who came in, we always hit and maximized with the insurance,” said Matthew Thacker, who worked as an assistant manager at a World branch in Tifton, Ga., from 2006 to 2007. “That was money that went back to the company.”

World profits from the insurance in two ways: It receives a commission from the insurer, and, since the premium is typically financed as part of the loan, World charges interest on it.

“The consumer is screwed six ways to Sunday,” said Birny Birnbaum, the executive director of the nonprofit Center for Economic Justice and a former associate commissioner at the Texas Department of Insurance.

Industry data reveal just how profitable this part of World’s business is. World offers the products of an insurer called Life of the South, a subsidiary of the publicly traded Fortegra Financial Corp. In Georgia in 2011, the insurer received $26 million in premiums for the sort of auto insurance Sutton purchased as part of her loan. Eighteen million dollars, or 69 percent, of that sum went right back to lenders like World. In all, remarkably little money went to pay actual insurance claims: about 5 percent.

The data, provided to ProPublica by the National Association of Insurance Commissioners, paint a similar picture when it comes to Life of the South’s other products. The company’s credit accident and health policies racked up $20 million in premiums in Georgia in 2011. While 56 percent went back to lenders, only 14 percent went to claims. The pattern holds in other states where World offers the products.

Fortegra declined to comment.

Gretchen Simmons, who managed a World branch in Pine Mountain, Ga., praised the company for offering customers loans they might not have been able to get elsewhere. She said she liked selling accidental death and disability insurance with loans, because many of her clients were laborers who were “more prone to getting their finger chopped off.”

According to several contracts reviewed by ProPublica, losing one finger isn’t enough to make a claim. If the borrower loses a hand, the policy pays a lump sum (for instance, $5,000). But, according to the policy, “loss of a hand means loss from one hand of four entire fingers.”

Simmons took out a loan for herself from a World competitor

2014 and made sure to decline the insurance. Why? “Because I knew that that premium of a hundred and blah blah blah dollars that they’re charging me for it can go right into my pocket if I just deny it.”

In its written response, World alleged that Simmons had been fired from the company because of “dishonesty and alleged misappropriation of funds,” but it refused to provide further details. Simmons, who worked for World from 2005 to 2008, denied that she left the company on bad terms.

Federal rules prohibit the financing of credit insurance premiums as part of a mortgage but allow it for installment and other loans. Installment lenders can also legally exclude the premiums when calculating the loan’s annual percentage rate, as long as the borrower can select the insurer or the insurance products are voluntary 2014 loopholes in the Truth in Lending Act, the federal law that regulates how consumer-finance products are marketed.

World’s contracts make all legally necessary disclosures. For example, while some insurance products are voluntary, World requires other types of insurance to obtain a loan. For mandatory insurance, Sutton’s contract states that the borrower “may choose the person or company through which insurance is to be obtained
.” She, like most customers, wouldn’t know where to begin to do that, even if it were possible.

“Nobody is going to sell you insurance that protects your loan, other than the lender,” said Birnbaum. “You can’t go down the street to your State Farm agent and get credit insurance.”

When insurance products are optional 2014 meaning the borrower can deny coverage but still get the loan 2014 borrowers must sign a form saying they understand that. “We were told not to point that out,” said Thacker, the former Tifton, Ga.,

assistant manager.

World, in its response to ProPublica, declined to offer any statistics on what percentage of its loans carry the insurance products, but it said employees are trained to inform borrowers that they are voluntary. As for why the company offers the insurance products in some states and not in others, World said it depends on state law and if “it makes business sense to do so.”

Buys, the former Chandler, Okla., branch manager, said she found the inclusion of the insurance products particularly deceitful. In Oklahoma, World can charge high interest rates and fees on loans under $1,000 or so, so it typically doesn’t include insurance on those loans. But it often adds the products to larger loans, which has the effect of jacking up the annual rate.

“You were supposed to tell the customer you could not do the loan without them purchasing all of the insurance products, and you never said ‘purchase,’ ” Buys recalled. “You said they are ‘included with the loan’ and focused on how wonderful they are.”

It was not long into her tenure that Buys said she began to question whether the products were really required. She asked a family friend who was an attorney if the law required it, she recalled, and he told her it didn’t.

World trained its employees to think of themselves as a “financial adviser” to their clients, Buys said. She decided to take that literally.

When a customer took out a new loan, “I started telling them, ‘Hey, you can have this insurance you’re never going to use, or you can have the money to spend,'” she recalled. Occasionally, a customer would ask to have the disability insurance included, so she left it in. But mostly, people preferred to take the money.

One day, she remembered, she was sitting across from a couple who had come into the office to renew their loan. They were discussing how to cover the costs of a funeral, and Chandler being a small town, she knew it was their son's. On her screen were the various insurance charges from the original loan. The screen "was blinking like I could edit it," she recalled.

At that moment, she realized that she could advise customers renewing their loans that they could drop the insurance from their previous loans. If they did so, they'd receive several hundred dollars more. The couple excitedly agreed, she recalled, and other customers also thought it was good advice and dropped the products.

Buys' regional supervisor threatened to discipline her, Buys said. But it was hard to punish her for advising customers that the products were voluntary when they were. "All they could do was give me the stink eye," Buys said.

But World soon made it harder to remove the insurance premiums, Buys said. She couldn't remove them herself but instead had to submit a form, along with a letter from the customer, to World's central office. That office, she said, sometimes required borrowers to purchase the insurance in order to get the loans.

World, in its response to ProPublica's questions, said Buys' assertions about how it handled insurance were "false," but it declined to provide further details.

Eventually, Buys said, her relationship with management deteriorated to the point that she felt she had no choice but to quit. By the time she left in 2011, she had worked at World for three years.

World, in the answers provided to ProPublica, said that when Buys quit, she was "subject to being terminated for cause including dishonesty and alleged misappropriation of funds." The company declined to provide any details about the

allegations, but after Buys quit, World filed suit in county court, accusing her of stealing money from the company. Buys retained an attorney and responded, maintaining her innocence and demanding proof of any theft. World withdrew the suit.

‘It’s All About Keeping Them’

Sutton’s original loan contract required her to make seven payments of $50, at which point her loan would have been fully paid off.

But if World can persuade a customer to renew early in the loan’s lifespan, the company reaps the lion’s share of the loan’s charges while keeping the borrower on the hook for most of what they owed to begin with. This is what makes renewing loans so profitable for World and other installment lenders.

“That was the goal, every single time they had money available, to get them to renew, because as soon as they do, you’ve got another month where they’re just paying interest,” says Kristin, the former World employee from Texas.

Sure enough, less than four months after taking out the initial loan, Sutton agreed to renew.

In a basic renewal (the company calls it either a “new loan” or a “refinance”), the borrower agrees to start the loan all over again. For Sutton, that meant another seven months of $50 payments. In exchange, the borrower receives a payout. The amount is based on how much the borrower’s payments to date have reduced the loan’s principal.

For Sutton, that didn’t amount to much. She appears to have made three payments on her loan, totaling $150. (The company’s accounting is opaque, and Sutton does not have a record of her payments.) But when she renewed the loan, she received only $44.

Most of Sutton’s payments had gone to cover interest,

insurance premiums and other fees, not toward the principal. And when she renewed her loan a second time, it was no different.

The effect is similar to how a mortgage amortizes: The portion of each payment that goes toward interest is at its highest the first month and decreases with each payment. As the principal is reduced, less interest is owed each month. By the end of the loan, the payments go almost entirely toward paying down the principal.

World regularly sends out mailers, and its employees make frequent phone calls, all to make sure borrowers know they have funds available. Every time a borrower makes a payment, according to the company, that customer "receives a receipt reflecting, among other information, the remaining balance on the borrower's loan and, where applicable, the current new credit available for that borrower." And when a borrower visits a branch to make a payment, former employees say, employees are required to make the pitch in person.

"You have to say, 'Let me see what I can do to get you money today,'" Buys recalled. If the borrower had money available on the account, it had to be offered, she and other former employees said.

The typical pitch went like this, Kristin said: "'Oh, by the way, you've got $100 available, would you like to take that now or do you want to wait till next month?'"

Customers would ask, "'Well, what does this mean?'" Buys said. "And you say, 'Oh, you're just starting your loan over, you know, your payments will be the same.'"

The company often encourages customers to renew the loans by saying it will help them repair their credit scores, former employees said, since World reports to the three leading credit bureaus. Successively renewing loans also makes customers eligible for larger loans from World itself. After

renewing her loan twice, for instance, Sutton received an extra $40.

“We were taught to make [customers] think it was beneficial to them,” Buys said.

“Retail (i.e., consumer) lending is not significantly unlike other retail operations and, like those other forms of retail, World does market its services,” the company wrote in its response to questions.

About three-quarters of the company’s loans are renewals, according to World’s public filings. Custo
mers often renew their loans after only two payments, according to former employees.

The company declined to say how many of its renewals occur after two payments or how many times the average borrower renews a loan. Renewals are only granted to borrowers who can be expected to repay the new loan, it said.

Lawsuits against other major installment lenders suggest these practices are common in the industry. A 2010 lawsuit in Texas claimed that Security Finance, a lender with about 900 locations in the United States, induced a borrower to renew her loan 16 times over a three-year period. The suit was settled. In 2004, an Oklahoma jury awarded a mentally disabled Security Finance borrower $1.8 million; he had renewed two loans a total of 37 times. After the company successfully appealed the amount of damages, the case was settled. Security Finance declined to respond to questions about the suits.

Another 2010 suit against Sun Loan, a lender with more than 270 office locations, claims the company convinced a husband and wife to renew their loans more than two dozen times each over a five-year period. Cary Barton, an attorney representing the company in the suit, said renewals occur at the customer’s request, often because he or she doesn’t have enough money to make the monthly payment on the previous loan.

The predominance of renewals means that for many of World's customers, the annual percentage rates on the loan contracts don't remotely capture the real costs. If a borrower takes out a 12-month loan for $700 at an 89 percent annual rate, for example, but repeatedly renews the loan after four payments of $90, he would receive a payout of $155 with each renewal. In effect, he is borrowing $155 over and over again. And for each of those loans, the effective annual rate isn't 89 percent. It's 537 percent.

World called this calculation "completely erroneous," largely because it fails to account for the money the customer received from the original transaction. World's calculation of the annual percentage rate if a borrower followed this pattern of renewals for three years: about 110 percent.

A Decade of Debt

In every World office, employees say, there were loan files that had grown inches thick after dozens of renewals.

At not just one but two World branches, Emma Johnson of Kennesaw, Ga., was that customer. Her case demonstrates how immensely profitable borrowers like her are for the company 2014 and how the renewal strategy can transform long-term, lower-rate loans into short-term loans with the triple-digit annual rates of World's payday competitors.

Since being laid off from her janitorial job in 2004, Johnson, 71, has lived primarily on Social Security. Last year, that amounted to $1,139 in income per month, plus a housing voucher and food stamps.

Johnson could not remember when she first obtained a loan from World. Nor could she remember why she needed either of the loans. She can tell you, however, the names of the branch managers (Charles, Brittany, Robin) who've come and gone over the years, her loans still on the books.

Johnson took out her first loan from World in 1993, the company said. Since that time, she has taken out 48 loans, counting both new loans and refinancings, from one branch. In 2001, she took out a loan from the second branch and began a similar string of renewals.

When Johnson finally declared bankruptcy early this year, her two outstanding loans had face values of $3,510 and $2,970. She had renewed each loan at least 20 times, according to her credit reports. Over the last 10 years, she had made at least $21,000 in payments toward those two loans, and likely several thousand dollars more, according to a ProPublica analysis based on her credit reports and loan documents.

Although the stated length of each loan was about two years, Johnson would renew each loan, on average, about every five months. The reasons varied, she said. “Sometimes stuff would just pop out of the blue,” she said. This or that needed a repair, one of her children would need money.

Sometimes, it was just too enticing to get that extra few hundred dollars, she acknowledged. “In a sense, I think I was addicted.”

It typically took only a few minutes to renew the loan, she said. The contract contained pages of disclosures and fine print, and the World employee would flip through, telling her to sign here, here and here, she recalled.

Her loan contracts from recent years show that the payouts were small, often around $200. That wasn’t much more than the $115 to $135 Johnson was paying each month on each loan. The contracts had stated APRs ranging from about 23 percent to 46 percent.

But in reality, because Johnson’s payments were largely going to interest and other fees, she was taking out small loans with annual rates typically in the triple digits, ranging to more than 800 percent. World also disputed this calculation.

As she continued to pay, World would sometimes increase her balance, providing her a larger payout, but her monthly payment grew as well. It got harder and harder to make it from one Social Security check to the next. In 2010, she took out another loan, this one from an auto-title lender unconnected to World.

Eventually, she gave up on juggling the three loans. By the end of each month, she was out of money. If she had to decide between basic necessities like gas and food and paying the loans, the choice, she finally realized, was easy.

‘Chasing’ Customers

At World, a normal month begins with about 30 percent of customers late on their payments, former employees recalled. Some customers were habitually late because they relied on Social Security or pension checks that came later in the month. They might get hit with a late fee of $10 to $20, but they were otherwise reliable. Others required active attention.

Phone calls are the first resort, and they begin immediately 2014 sometimes even before the payment is due for customers who were frequently delinquent. When repeated calls to the home or cell phone, often several times a day, don’t produce a payment, World’s employees start calling the borrower at work. Next come calls to friends and family, or whomever the borrower put down as the seven “references” required as part of the loan application.

“We called the references on a daily basis to the point where they got sick of us,” said Simmons, who managed the Pine Mountain, Ga., store.

If the phone calls don’t work, the next step is to visit the customer at home: “chasing,” in the company lingo. “If somebody hung up on us, we would go chase their house,” said

Kristin from Texas.

The experience can be intimidating for customers, especially when coupled with threats to seize their possessions, but the former employees said they dreaded it, too. “That was the scariest part,” recalled Thacker, a former Marine, who as part of his job at World often found himself driving, in the evening, deep into the Georgia countryside to knock on a borrower’s door. He was threatened a number of times, he said, once with a baseball bat.

Visits to the borrower’s workplace are also common. The visits and calls at work often continue even after borrowers ask the company to stop, according to complaints from World customers to the Federal Trade Commission. Some borrowers complained the company’s harassment risked getting them fired.

ProPublica obtained the FTC complaints for World and several other installment loan companies through a Freedom of Information Act request. They show consistent tactics across the industry: the repeated phone calls, the personal visits.

After she stopped paying,
Johnson remembered, World employees called her two to three times a day. One employee threatened to “get some stuff at your house,” she said, but she wasn’t cowed. “I said, ‘You guys can get this stuff if you want it.'” In addition, a World employee knocked on her door at least three times, she said.

The goal of the calls and visits, former employees said, is only partly to prod the customer to make a payment. Frequently, it’s also to persuade them to renew the loan.

“That’s [World’s] favorite phrase: ‘Pay and renew, pay and renew, pay and renew,'” Simmons said. “It was drilled into us.”

It’s a tempting offer: Instead of just scrambling for the money to make that month’s payment, the borrower gets some

money back. And the renewal pushes the loan’s next due date 30 days into the future, buying time.

But the payouts for these renewals are often small, sometimes minuscule. In two of the contracts ProPublica examined, the customer agreed to start the loan all over again in exchange for no money at all. At other times, payouts were as low as $1, even when, as in one instance, the new loan’s balance was more than $3,000.

Garnishing Wages

For Sutton, making her monthly payments was always a struggle. She remembered that when she called World to let them know she was going to be late with a payment, they insisted that she come in and renew the loan instead.

As a result, seven months after getting the original $207 loan from World, Sutton wasn’t making her final payment. Instead, she was renewing the loan for the second time. Altogether, she had borrowed $336, made $300 in payments, and now owed another $390. She was going backward.

Not long after that second renewal, Sutton said, Walmart reduced her hours, and there simply wasn’t enough money to go around. “I called them at the time to say I didn’t have money to pay them,” she said. World told her she had to pay.

The phone calls and home visits followed. A World employee visited the Walmart store where she worked three times, she recalled.

World didn’t dispute that its employees came to Sutton’s workplace, but it said that attempts to contact “any borrower at her place of employment would occur only after attempts to contact the borrower at her residence had failed.”

In Georgia, World had another path to force Sutton to pay: suing her.

World files thousands of such suits each year in Georgia and other states, according to a review of court filings, but the company declined to provide precise figures.

Because Sutton had a job, she was a prime target for a suit. Social Security income is off limits, but with a court judgment, a creditor can garnish up to 25 percent of a debtor's wages in Georgia.

"When we got to sue somebody, [World] saw that as the jackpot," Buys said. In her Oklahoma store, collecting the junk people had pledged as collateral was considered useless. Garnishment was a more reliable way for the company to get its money, and any legal fees were the borrower's problem.

World said 11 of the states where it operates permit lenders to "garnish customers' wages for repayment of loans, but the Company does not otherwise generally resort to litigation for collection purposes, and rarely attempts to foreclose on collateral."

The sheriff served Sutton with a summons at Walmart, in front of her co-workers. Sutton responded with a written note to the court, saying she would pay but could only afford $20 per month. A court date was set, and when she appeared, she was greeted by the branch manager who had given her the original loan. The manager demanded Sutton pay $25 every two weeks. She agreed.

For five months, Sutton kept up the payments. Then, because of taxes she had failed to pay years earlier, she said, the IRS seized a portion of her paycheck. Again, she stopped paying World. In response, the company filed to garnish her wages, but World received nothing: Sutton was earning too little for the company to legally get a slice of her pay. After two months, World took another step.

Sutton's wages are paid via a "payroll card," a kind of debit card provided by Walmart. World filed to seize from Sutton's

card the $450 it claimed she owed. By that point, she'd made more than $600 in payments to the company.

The immediate result of the action was to freeze Sutton's account, her only source of income. She couldn't gas up her car. As a result, she couldn't drive to work.

Sutton said she called a number for World's corporate office in a panic. "I said, 'You're gonna leave me with no money to live on?'" The World employee said the company had had no choice because Sutton didn't hold up her end of their agreement, Sutton recalled, and then the employee made an offer: If Sutton's available wages in her account hadn't covered her total debt to World after 30 days, the company would unfreeze her account and allow her to start a new payment plan.

Desperate, she gave up trying to deal with the company on her own and went to Georgia Legal Services Program, a nonprofit that represents low-income clients across the state.

"Her case is terribly egregious," said Michael Tafelski, a lawyer with GLSP who specializes in collections cases and represented Sutton. World had overstated the amount Sutton legally owed, he said, and circumvented laws limiting the amount of funds creditors can seize. In effect, the company was garnishing 100 percent of her wages. It's "unlike anything I have ever seen," Tafelski said, "and I have seen a lot of shady collectors."

After Tafelski threatened to sue World, the company beat a quick retreat. It dismissed all open cases against Sutton and declared her obligation satisfied.

In its response to ProPublica, World claimed that Tafelski had bullied the billion-dollar company: "Mr. Tafelski used abusive out of court threats to accomplish an end he knew he could not obtain through legal process."

“It’s common practice among lawyers to contact the opposing party to attempt to resolve problems quickly, without filing a lawsuit, especially in emergency cases like this one,” Tafelski said.

As for Sutton, she had missed several days of work, but her account was unfrozen, and she was done with World Finance forever.

“If I’d known then what I know now,” she said, “I’d never have fooled with them.”