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UPDATE ON TOYOTA AND NHTSA'S RESPONSE TO THE PROBLEM OF SUDDEN UNINTENDED ACCELERATION

HEARING

BEFORE THE

SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS

OF THE

COMMITTEE ON ENERGY AND COMMERCE
HOUSE OF REPRESENTATIVES

ONE HUNDRED ELEVENTH CONGRESS

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UPDATE ON TOYOTA AND NHTSA'S RESPONSE TO THE PROBLEM OF SUDDEN UNINTENDED ACCELERATION

THURSDAY, MAY 20, 2010

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

The Subcommittee met, pursuant to call, at 10:00 a.m., in Room 2123 of the Rayburn House Office Building, Hon. Bart Stupak [Chairman of the Subcommittee] presiding.

Present: Representatives Stupak, Braley, Schakowsky, Christensen, Dingell (ex officio), Waxman (ex officio), Burgess, Blackburn, Gingrey, Griffith, Latta, and Barton.

Also present: Representative Gonzalez.

Staff present: Phil Barnett, Staff Director; Bruce Wolpe, Senior Advisor; Dave Leviss, Chief Oversight Counsel; Allison Cassady, Professional Staff Member; Molly Gaston, Counsel; Anne Tindall, Counsel; Scott Schloegel, Investigator; Ali Neubauer, Special Assistant; Karen Lightfoot, Communications Director, Senior Policy Advisor; Elizabeth Letter, Special Assistant; Lindsey Vidal, Special Assistant; Earley Green, Chief Clerk; Mitchell Smiley, Special Assistant; Melissa Bartlett, Minority Counsel, Health; Karen Christian, Minority Counsel, Oversight; Kevin Kohl, Minority Professional Staff Member; Alan Slobodin, Minority Chief Counsel, Oversight.

OPENING STATEMENT OF HON. BART STUPAK, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MICHIGAN

Mr. STUPAK. This meeting will come to order. Today we have a hearing titled Update on Toyota and NHTSA's Response to the Problem of Sudden Unintended Acceleration. The chairman, ranking member, and the chairman emeritus will now be recognized for 5-minute opening statement. Other members of the subcommittee will be recognized for a 3-minute opening statement. I will begin. Today's hearing will serve as a progress report on where Toyota and the National Highway Traffic Safety Administration, NHTSA, are in terms of diagnosing and correcting sudden unintended acceleration. We will also examine what Toyota has done since our February 23 hearing. During our February 23 hearing, we heard from Toyota Motor Sales President Jim Lentz, Department of Transportation Secretary, Secretary Ray LaHood, consumer advocate Sean Kane, and from an expert witness, Professor David Gilbert of

Southern Illinois University about sudden, unintended accelerations, SUA, in Toyota vehicles.

We also heard from Rhonda and Eddie Smith about their experience with sudden unintended acceleration in their Lexus. Committee members asked many questions but we were left with more questions than answers. Toyota engaged in damage control almost immediately following our hearing by continuing asserting confidence that the extensive testing proves the safety of the electronics systems and attacking those individuals who disagreed with them. But as Chairman Waxman noted in his opening, the record doesn't support Toyota's statements that it conducted extensive testing. The truth is that we don't know whether electronics plays a role in sudden unintended acceleration and Toyota doesn't know either. What is disappointing to me is learning that Toyota seems to have focused more on discrediting its critics than on resolving the problem.

When Dr. Gilbert testified before this subcommittee in February, he explained that he found a way to induce sudden, unintended acceleration in a Toyota vehicle without triggering an error code in the vehicle's computer. Committee staff has spoken with several academics who describe Dr. Gilbert's experiment as sensible and as a reasonable way to begin to study unintended acceleration. Dr. Christian Gerdes, a professor at Stanford University who Toyota asked to review Dr. Gilbert's work, told the committee that Dr. Gilbert's approach was a legitimate starting point for a more in-depth inquiry into the causes of sudden unintended acceleration.

Unfortunately, Toyota appears to have been more interested in messaging then scientific inquiry. After the hearing, Toyota hired a public relations firm to advise the company on its public response to lawsuits claiming that electronics plays a role in sudden unintended acceleration. We know from the committee's investigation that the PR firm, Benenson Strategy Group, or BSG, conducted a poll to learn more about what Toyota could do to repair damage to the company's image among educated consumers known as opinion elites. A presentation by Benenson's Strategy Group shows that, among the key findings from the poll, Toyota learned the following.

Debunking Kane/Gilbert's testimony will be critical for restoring confidence among elites and reassuring audiences that electronic throttle control is in fact not an issue. That is a document of March 5. We reviewed an updated BSG document showing the results from another Toyota poll to test some aggressive messages for possible use in future public statements or advertising. This poll referred to Dr. Gilbert's experiments as phony, shoddy science, a hoax, and a parlor trick that would never happen in real life. We have a document on that.

BSG summarized the results from this new poll in a presentation, dated March 8, 2010, suggesting that Toyota should try to damage Dr. Gilbert's credibility by accusing him of having "monetary or self interested motives." Toyota told the committee that the company did not follow its pollster's suggestion to attack Dr. Gilbert, but the documents suggest otherwise. On March 8, a Monday, Toyota held a press conference and released a report by Exponent criticizing Dr. Gilbert's work. Two days before the press conference, the vice president of Toyota's public relations firm noted in an

email to a colleague the importance of finishing the poll before this event, saying, I am quoting now, "We really, really need to get this done, especially with elites. Toyota has a press conference on Monday and need our data to know what to say." That is the document we have right here.

At that press conference, before Exponent presented its findings, Toyota spokesman Mike Michels disparaged Dr. Gilbert's work and said it was "paid for by an advocate for trial lawyers." The Exponent report on Dr. Gilbert's research was a hit job, not solid science. Exponent confirmed the key conclusions that Dr. Gilbert had drawn in his report, but then disparaged Dr. Gilbert for not testing the likelihood of the faults he identified even though Exponent never did this analysis either. Exponent added new steps to Dr. Gilbert's experiment and mischaracterized others, all in an attempt to make his outcome seem unlikely and to invent flaws in his analysis, but independent experts have defended Dr. Gilbert's approach, including a Stanford University professor who reviewed the report at Toyota's request and described Dr. Gilbert's experiment as a perfectly reasonable starting point.

When I look at Toyota's approach, I do not understand why the company is attacking Dr. Gilbert for trying to find a root cause of sudden unintended acceleration. Toyota ought to be undertaking a comprehensive review and encouraging automotive experts to come forward with ideas of what could be causing the problem. Based on the committee's review of Exponent's work for Toyota in this regard, we remain concerned that this is not occurring. The committee asked Toyota and Exponent to produce all reports, analyses or communications describing the result of Exponent's work for Toyota related to unintended acceleration or electronic throttle control. We also asked for all contracts, agreements, memoranda or correspondence concerning the scope of Exponent's work for Toyota.

From these responses, we have learned that only direction for additional studies reside in the minds of Exponent employees. It appears that Exponent's only public written work to date is the incomplete, interim study and report attacking Dr. Gilbert's credibility. I find this extremely troubling given the fact that Toyota and Exponent have both informed the committee they are taking a comprehensive look at the issue of sudden unintended acceleration in Toyota and Lexus vehicles.

To be fair, Toyota has made progress on processing their recalls. They have completed 80 percent of the sticky pedal recalls, and they have completed 30 percent of their floor mat recalls. They have also made some management changes that we hope will lead to improved safety culture. One of the most significant improvements that Toyota could make would be to install brake override technology in all of their vehicles. Brake override technology ensures that if both the accelerator and the brake are pressed at the same time the brake will override the accelerator. Toyota told the committee that beginning in 2011 all vehicles will have this feature, but the company is being more selective about which older models will receive the software upgrade.

Despite the fact that installing brake override technology on older vehicles would only cost $50 per vehicle, Toyota does not plan to offer this option even at the owner's expense to owners of certain

models. I look forward to hearing why Toyota won't offer brake override to their customers with older vehicles even if the customer pays for it. Since our February hearing NHTSA and Toyota appear to have improved their working relationship. NHTSA officials tell us that Toyota has shown more willingness to address issues of concern. NHTSA has informed us it has commissioned 2 studies to examine unintended acceleration in vehicles. The first is a study to be conducted by NASA scientists who examined Toyota's electronic throttle control systems for possible problems associated with their hardware and/or software. This report is targeted to be completed by the end of August.

The second study will be conducted by a panel of independent scientists selected by the National Academy of Sciences. The NAS study will offer a comprehensive examination of unintended acceleration and electronic control systems across all automobile manufacturers. This study should be completed by fall of 2011. I would like to thank both Mr. Strickland and Mr. Lentz for their testimony today and for their ongoing cooperation with the committee's investigation. Mr. Lentz, we appreciate Toyota and its outside counsel, Ted Hester, for the company's responsiveness to our several requests for documents and for substantive briefings.

I wish I could say we received the same level of cooperation from Toyota's consultant, Exponent. Unfortunately, Exponent has withheld responsive documents and information from the committee, and has even modified responsive documents before producing them to us, in direct violation of the committee's instructions. It is ironic that the firm Toyota has hired to conduct an independent investigation has behaved like it has something to hide from this committee. I will next turn to Mr. Burgess for an opening statement, please.

OPENING STATEMENT OF HON. MICHAEL C. BURGESS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF TEXAS

Mr. BURGESS. Thank you, Chairman Stupak, and, as always, thank you and Chairman Waxman for convening this important hearing, and welcome to our witnesses who are here with us today. Our first hearing on the Toyota problems was almost 3 months ago to the day. At that time we had a lot of questions but not a lot of answers as to what was causing the sudden unintended acceleration events in Toyotas. So today we are here for answers but it also appears that we will not be getting those. I was hoping this hearing was called because there was some new information that was coming to the fore, but, in fact, we may be having this hearing because we found out that Toyota did a poll.

Now, Mr. Chairman, if polling is found to be at the level of a high crime or misdemeanor this dais would be suddenly and irrevocably silent because we would all go away. We are not going to get those answers today. I am concerned that we continue to have hearings where we literally go in circles because this is an important issue that needs to be resolved. It needs to be resolved for the safety of Toyota's customers, and it needs to be resolved for the future of auto sales by that manufacturer. This hearing does seem premature. Toyota has commissioned Exponent, an engineering

and scientific firm, to do a top to bottom review of its cars to figure out cause of these events.

The National Highway Traffic Safety Administration has asked for NASA's failure analysis experts to take a look at Toyota's electronics. As of today, both of those studies are ongoing. That is a good thing. We just don't have answers yet. According to Exponent, they haven't found the answer to what is causing these events and NASA's work is just getting started. In fact, at the hearing previous, Ranking Member Barton asked the National Highway Traffic Safety Administration to not just find the car that was in question that day, the car of Rhonda and Eddie Smith, but find it and tear it apart to find out what the problem was. Now NHTSA has found the Smith's car and has had it for almost 3 months. According to NHTSA's e-mails to the minority staff, engineers have run some tests on the car and do plan to do more, but here is what they found to date. And let me quote, so there will be no question about it. "Nothing remarkable."

Mr. Chairman, I would ask that these e-mails from NHTSA and the minority staff be included in the record. Apparently, the Smiths' car was delivered on February 26, and that is the time that it has been under study. Three months later, we don't have an answer to what went wrong with the Smiths' car, never mind answers to all of the other Toyotas that have experienced events that are so far inexplicable. And that is not really surprising because these are after all very complicated problems that potentially involve electronics, software, and mechanical issues. Finding the right answer is going to take time but the important part is finding the right answer and not rushing to an answer because otherwise it will be impossible to identify the right solution.

If you don't find the right solution, the cars are not safe and the public is not protected, and Toyota's reputation continues to suffer. As this subcommittee is an investigative body, we should be careful not to draw conclusions about the nature of the comprehensiveness of these investigations while they are ongoing. Both NASA and Exponent have laid out a number of areas to examine including software, hardware, systems interaction and magnetic interference. My understanding is that NASA and Exponent are looking at many of the same issues. Mr. Chairman, that is called independent verification. That is actually part of the scientific method, and it is a good thing.

I do want to impress upon the National Highway Traffic Safety Administration and on Exponent that our patience in this committee is not endless when it comes to getting answers. Exponent has recently provided the committee with a working graph of their work. I will accept that this graph is incomplete that the information in it has not been thoroughly tested and that Exponent has not identified the causes of these events. That is fine. But when it comes to the scope of Exponent's work, we have seen test results and raw data but no paper that sets out their plans for testing Toyotas. Essentially, we have been told to take their word for it as to what exactly they are doing.

Exponent is not here today to speak for itself. Since our last meeting, we have met with one of the Exponent engineers working on the Toyota case. Perhaps we still don't have a full picture of

their work. Mr. Lentz, what I hope to hear from you today is what Toyota's strategy is going forward for solving this problem and that Toyota is committed to working and sharing with this committee and the public whatever Exponent finds when it finds it. I would also like to welcome Administrator Strickland from NHTSA. NHTSA has opened a number of different inquiries into Toyota's responsiveness when it comes to recall and safety concerns. The National Highway Traffic Safety Administration has also penalized Toyota over $16 million with respect to the timeliness of Toyota's recall, which Toyota paid yesterday without admitting fault to the underlying charges.

Mr. Strickland, I know you recently traveled to Japan with Secretary LaHood to meet with Toyota. Before that meeting Secretary LaHood said Toyota was safety deaf. After that meeting, Secretary LaHood said Toyota is now listening and paying attention to NHTSA's warnings, and that is quite a turnaround in one meeting's time. Mr. Strickland, I would like to know if you agree with the Secretary's assessment and why you are confident that now today Toyota has gotten the message that before seemed to have some difficulty getting through.

I would also like to learn from Administrator Strickland how Toyota's working relationship with NHTSA has improved since our last hearing. Based on Secretary LaHood's testimony at our last hearing and on your testimony before the Commerce, Trade, and Consumer Protection Subcommittee in March, I believe it is NHTSA's view that it had the necessary authorities and data to do the proper oversight of Toyota. If that is true, was the only problem Toyota? Are you still confident today that NHTSA's investigations weren't as thorough as they should have been and that NHTSA had the necessary skills and expertise to perform same. Is NHTSA doing a systemic review of other recalls to assure itself that other manufacturers are being responsive?

On that note, Mr. Lentz, I do want to make sure recent improvements that Toyota has announced like smart team inspections of cars and quality panels are not a matter of form over substance. I hope you can offer us some specifics about how this has improved Toyota's responsiveness to its drivers, to our constituents and to NHTSA. Mr. Chairman, you have been indulgent. I will yield back the balance of my time.

[The prepared statement of Mr. Burgess follows:]

Opening Statement of the Honorable Michael C. Burgess
Ranking Member
Subcommittee on Oversight and Investigations

Hearing on
"Update on Toyota and NHTSA's Response
To the Problem of Sudden Unintended Acceleration"

May 20, 2010

Thank you, Chairmen Stupak and Waxman, for convening this hearing.

Our first hearing on the Toyota problems was almost three months ago to the day. At that time, we had a lot of questions, but not a lot of answers, as to what was causing the sudden unintended acceleration events in Toyotas.

I am afraid that we won't get those answers today. It's important that this Committee keeps the heat on Toyota and conducts continued oversight of both the company and NHTSA. However, I am concerned that this hearing may be a bit premature.

Toyota has commissioned Exponent, an engineering and scientific firm, to do a top-to-bottom review of its cars to figure out the cause of these events. NHTSA has asked NASA's failure

analysis experts to take a look at Toyota's electronics. As of today, both of those studies are ongoing. According to Exponent, they haven't found an answer as to what is causing these events. NASA's work is just getting started.

In fact, at that hearing, Ranking Member Barton asked NHTSA to "tear apart" the car of Rhonda and Eddie Smith, two of the witnesses at that hearing, to see if it could find some answers. NHTSA found the Smith's car and has had it for almost three months. According to NHTSA's emails to the Minority staff, engineers have run some tests on the car, and plan to do more, but so far, they have found "nothing remarkable."

Mr. Chairman, I would ask that these emails be included in the record. Three months later, we don't have an answer about what went wrong with the Smiths' one car, never mind answers about all the Toyotas that have experienced these events. And that's really not surprising. These are complicated problems that potentially involve electronics, software, and mechanical issues. Finding the right answer is going to take time. But the important part is finding the right answer, and not rushing to an answer, because otherwise, it will be impossible to identify the right solution to make these cars safer.

As this Subcommittee is an investigative body, we should be careful not to draw conclusions about the nature or comprehensiveness of these investigations while they are ongoing. Both NASA and Exponent have laid out a number of areas to examine, including software, hardware, systems interaction, and magnetic interference. My understanding is that NASA and Exponent are looking at many of the same issues.

I do want to impress upon NHTSA and Exponent that our patience is not endless when it comes to getting answers. Exponent recently provided us with a working draft of their work. I accept that this draft is incomplete, that the information in it has not been thoroughly tested, and that Exponent has not identified the causes of these events. That's fine. But when it comes to the scope of Exponent's work, we have seen test results and raw data, but no paper that sets out their plans for testing Toyotas. Essentially, we have been told to take their word for it as to what they are doing.

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their work. Mr. Lentz, what I hope to hear from you today is Toyota's strategy for solving this problem and that Toyota is committed to sharing with this Committee — and the public — whatever Exponent finds, when it finds it.

I would also like to welcome Administrator Strickland from NHTSA. NHTSA has opened a number of different inquiries into Toyota's responsiveness to NHTSA when it comes to recalls and safety concerns. NHTSA also penalized Toyota $16.4 million with respect to the timeliness of Toyota's recall, which Toyota paid yesterday without admitting fault to the underlying charges. Mr. Strickland, I know you recently traveled to Japan with Secretary LaHood to meet with Toyota. Before that meeting, Secretary LaHood said Toyota was "safety deaf." After that meeting, Secretary LaHood said Toyota is now listening and paying attention to NHTSA's warnings. That's quite a turnaround in one meeting's time. Administrator Strickland, I would like to know if you agree with the Secretary's assessment, and why you are confident that Toyota now gets the message.

I also want to learn from Administrator Strickland how Toyota's working relationship with NHTSA has improved since our last hearing. Based on Secretary LaHood's testimony at our

last hearing, and on your testimony before the Commerce, Trade and Consumer Protection Subcommittee in March, I believe it is NHTSA's view that it had the necessary authorities and data to do proper oversight of Toyota. If that's true, was the only problem Toyota? Are you still confident today that NHTSA's investigations were as thorough as they should have been, and that NHTSA had the necessary skills and expertise to do them? Is NHTSA doing a systemic review of other recalls to assure itself that the manufacturers are being responsive? On that note, Mr. Lentz, I want to make sure that the recent improvements Toyota has announced — like SMART Teams inspections of cars and quality panels — are not a matter of form over substance. I hope you can offer specifics about how this has improved Toyota's responsiveness to its drivers and to NHTSA.

I yield back the balance of our time.

Mr. STUPAK. Chairman Waxman, for opening statement, please, sir.

OPENING STATEMENT OF HON. HENRY A. WAXMAN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mr. WAXMAN. Chairman Stupak, I want to thank you for holding today's hearing on sudden unintended acceleration in Toyota-made cars and trucks. This is our second hearing on the subject since Toyota had already recalled millions of vehicles due to consumer complaints about sudden unintended acceleration in their vehicles. A key question that was raised at our first hearing was whether the thousands of complaints of these vehicles reported by consumers for sudden acceleration could be linked to electronic defects in the vehicles, and that is still the subject of our hearing today. In February, we had our hearing on this and I asked Toyota Motor Sales President James Lentz whether he was certain that the recalls Toyota had ordered, which involving replacing floor mats and sticky accelerator pedals, would solve the problem of Toyota cars racing out of control. He replied not totally.

This appears to have been a rare moment of corporate candor because the very next day, Toyota Motor Sales issued a press release entitled Clarification of Testimony Regarding Effectiveness of Recalls, in which the company reiterated that extensive testing made it confident that no problems exist with the electronic throttle control systems in its vehicles. The same day, before a different House committee, the President of Toyota Motor Company, Akio Toyoda, testified he is absolutely confident there is no problem with the design of Toyota's electronic throttle control system because very rigorous testing identified no problem or malfunction. A few days later, Toyota ran a full page advertisement, among others, in the Washington Post declaring that floor mat and sticky pedal recall solutions are effective and durable, and that Toyota is confident that no problems exist with the electronic throttle control system.

Well, these assurances are baffling. In preparation for our last hearing, we had received over 100,000 pages of documents from Toyota and the National Highway Traffic Safety Administration. What was most notable about those documents was what was missing. There was no evidence that Toyota or NHTSA took a serious look at the possibility that electronic defects could be causing the problems. In the months since that hearing, the committee has investigated the basis for Toyota's repeated assertion. We asked Toyota to bring from Japan the engineers most familiar with the testing of the throttle system, and we did a lengthy transcribed interview with these officials. We took a transcribed interview with the person most knowledgeable of the testing Toyota is doing in the United States, and this is through a firm called Exponent, and we reviewed many more documents.

What we have learned is deeply troubling. There is no evidence that Toyota has conducted extensive or rigorous testing of its vehicles for potential electronic defects that could cause sudden unintended acceleration. Our colleague, Mr. Burgess, said there is a top to bottom review. We shouldn't jump to conclusions. Well, Toyota has already jumped to the conclusion and made it over and over

again that they have ruled out any problem with the electronics. We asked Toyota for the basis of this assertion that vehicles do not have electronic defects, and they pointed to 2 primary justifications. One is the testing that was done in recent months by this consulting firm, Exponent. That is being done here in the United States.

The other is the pre-market testing done over the years by its engineers in Japan, so we focused our attention on these 2 areas. We looked at Exponent's work, which is claimed to have been comprehensive and independent but the documents reviewed by the committee don't support these assertions. On the screen, I hope we will see, a record that neither Toyota or Exponent produced to the committee that explained the relationship between the scope of Exponent's work. It is a contract. And it is a contract by Toyota and their consulting firm for engineering consulting services related to class actions filed against Toyota.

Nowhere in this document do the lawyers ask Exponent to conduct a comprehensive examination of sudden unintended acceleration. In fact, the words sudden unintended acceleration do not even appear, so our committee interviewed Dr. Shukri Souri, the Exponent engineer who oversaw the work, and what we learned from him was astonishing. Exponent has no written work for this project, no written time line, no written specifications for the experiments it has run or plans to run. They have no written list of the potential causes of sudden unintended acceleration that it plans to study. And though he is personally responsible for the hardware, software, and electronic interference testing that Exponent has done or will do for Toyota, Dr. Souri has no written notes on Exponent's work.

We asked him to explain this. How could there be this remarkable lack of documentation? And he explained that writing down what Exponent does would limit the creativity of the engineers working on the project. That is preposterous. A former Exponent engineer told the committee staff that the reason they didn't write anything down is to avoid creating documents that might have to be produced in a lawsuit. Toyota's lawyers appear to be involved in every aspect of Exponent's work. The lawyers have the right to approve the publication of Exponent's work. Dr. Souri reported to committee staff that all communications with Toyota have counsel present. The 2 reports Exponent has issued both state that they were prepared for Bowman & Brooke, the law firm, defending Toyota in litigation.

Exponent has issued 2 public reports to date, and they are not a comprehensive examination of sudden unintended acceleration. The first was an interim report. It was requested by the lawyers for use at our February hearing. And Dr. Souri told our staff that this report was unusual because Exponent had not completed its work, and outside experts criticized this report because it had unclear methodology and an overly narrow focus. They have a second report. This was even narrower designed only to rebut the testimony provided by our expert witness at the committee's first hearing. It did not offer any discussion of Exponent's investigation of sudden unintended acceleration other than its replication of a laboratory experiment conducted by the committee's witness.

Well, these reports do not even come close to supporting Toyota's contention that Exponent has thoroughly examined Toyota's electronic throttle control systems. Now the other basis for their assertions is that they did pre-market testing by their own engineers in Japan. We interviewed those engineers and they told us that their testing is done before there is mass production. But once the design is completed, they didn't do any additional testing. Now the pre-market testing has significant limitations. The company's durability testing is done only on prototype vehicles and components.

They don't test cars and parts that are actually used by drivers. The sample sizes are very small. In fact, only a single vehicle was tested. Independent experts consulted by our committee have told us that Toyota would need a much larger sample size to rule out potential causes of a rare and intermittent event like sudden unintended acceleration. In addition, Toyota acknowledged to committee staff that it does not control the testing performed on critical parts of the electronic throttle system that are done by its suppliers. They have no documentation to confirm the results of any tests that these suppliers chose to perform. The pre-market testing regime may be appropriate for testing the design of Toyota vehicles before manufacturing starts, but no amount of pre-marketing tests can be a substitute for a rigorous examination either to identify a post-manufacturing defect, and there is no evidence Toyota has done this post-manufacturing testing.

The results of our examination raise serious questions. Toyota has repeatedly told the public that it has conducted extensive testing of its vehicles for electronic defects. We can find no basis for these assertions. Toyota's assertions may be good public relations, but they don't appear to be true. Even more confounding is why Toyota has not done more. If they are serious about putting safety first, how can they justify hiring a litigation consulting firm that takes no written notes to lead its investigation into potential defects? The public has a right to expect that Toyota will do everything possible to find any potential electronic defects. But Toyota didn't do that. Instead, Toyota asked its defense counsel to hire a firm whose mission appears to be the exact opposite, to obfuscate and find no problems.

I want to be clear about what we know and what we don't know. I am not an engineer and I am not a scientist, but I do know that dozens of people have died in accidents linked to runaway Toyota vehicles. Many of these incidents have occurred in vehicles that did not have faulty floor mats or sticky pedals. Toyota's priority should be to do everything it can to figure out what is causing these frightening events, not to protect itself from lawsuits, and I do not believe Toyota has met this obligation. Chairman Stupak, I look forward to hearing from our witnesses, and thank you for convening the hearing.

Mr. STUPAK. Thank you, Mr. Chairman. Mr. Barton, for opening statement, please.

OPENING STATEMENT OF HON. JOE BARTON, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF TEXAS

Mr. BARTON. Thank you, Mr. Chairman. I think Chairman Waxman took his time and my time. He certainly gave an extensive

statement. I am just going to submit my statement for the record and make a few extemporaneous remarks. I share Chairman Waxman's concern about finding this problem. I am not omnipotent though, less complicated. It is easy to sit up here on the podium and point fingers and demand results and act as if we know what the answers are, but that is not how life is and that is not how engineering is. It is in the best interest of NHTSA to solve this problem as quickly as possible. It is obviously the best interest of Toyota and the entire automobile industry.

I agree with Chairman Waxman that I don't believe this is a sticky pedal-floor mat problem but having said that trying to fight a bug in millions of lines of software or find a glitch in a hardware system for the electronic ignition and steering system is very, very difficult. I am happy that NHTSA purchased the vehicle or obtained the vehicle that had the runaway acceleration problem that the Smiths talked about in our hearing here several months ago. It is my understanding that NHTSA engineers have been evaluating that vehicle and haven't yet found the problem. I am also pleased that NASA is involved. I am pleased that Toyota has hired an independent firm to try to figure out the problem.

Hopefully, today we will get some answers from our NHTSA administrator and the president of Toyota. This is a serious problem. There is absolutely no question that people have less confidence in Toyota vehicles that have experienced most of the runaway acceleration problems, and they expect the company and the government to solve that problem as quickly and expeditiously as possible, but it is very, very difficult in the real world. We just have to keep giving our best faith efforts. And under the leadership of Mr. Waxman and Mr. Stupak and Ranking Member Burgess and myself, we will use our resources so that the American people know what the issues are, and if there is something we need to do legislatively, we will certainly try to do that. I thank you, Mr. Stupak and Mr. Waxman, for continuing this investigation, and we will be very supportive that the facts are put on the table so the American people know what the facts are. And with that, I yield back.

[The prepared statement of Mr. Barton follows:]

Opening Statement of the Honorable Joe Barton

Ranking Member, Committee on Energy and Commerce

Hearing on

"Update on Toyota and NHTSA's Response to Problem of Sudden Unintended Acceleration"

May 20, 2010

Thank you, Chairman Stupak and Ranking Member Burgess, for convening this second hearing on Toyota and the events of sudden unintended acceleration experienced by some of its drivers.

It has been just three months since we heard from Rhonda and Eddie Smith from Tennessee, who testified about Rhonda's experienced in her Lexus. With her brake pedal smashed to the floor and her car shifted into reverse gear, she continued to barrel down the highway.

We also heard from Mr. James Lentz from Toyota at that hearing and he is back today. During the February hearing, I explained to Mr. Lentz that Toyota should have bought the Smiths' car, taken it apart, and used it to figure out the problem and how to fix it. I understand that NHTSA took possession of the car three months ago, but hasn't found anything. I would like to know what other testing NHTSA and Toyota are going to do to the Smiths' car, and when they expect to find an answer.

I welcome NHTSA Administrator David Strickland to the hearing. It is my understanding that NHTSA is working with failure analysis experts at NASA in a review of the Toyota electronics. In addition, NHTSA has asked the National Academy of Sciences to examine unintended acceleration and electronic vehicle controls across the entire automotive industry.

I hope that Toyota and NHTSA are doing everything in their power to get to the bottom of this. Toyota hired an outside

testing firm called Exponent and gave them an unlimited budget to determine the possible causes of unintended acceleration in their cars.

My understanding is that Toyota, Exponent, NHTSA, and NASA continue to test and look for answers. I am told that NASA is in the very earliest stages of its examination, and the National Academy of Sciences has not even appointed its panel of experts to begin to study the problem across all vehicles.

I am all for pressing Toyota's and NHTSA's to get on the job and I certainly expect our committee to conduct continued oversight of this issue, but I also want to say a brief word on behalf of common sense: Conclusion-jumping only seems to produce questionable results.

As I understand the status of things, no one actually knows the cause of the problem yet. Until the engineers who are doing

the detective work can tell us what went wrong, it seems unlikely that we'll be able to assess the adequacy of the steps taken by Toyota and NHTSA to prevent runaway acceleration in the future.

As we've heard, being the driver of a runaway car is terrifying at best and deadly at worst. As some of us up here know from our recent experience with the Toy Bill, unintended acceleration in policymaking can have undesirable consequences, too. That's why I hope we can find a way to wait for the engineering to catch up with our desire to help.

I thank you and yield back the balance of my time.

Mr. STUPAK. Thank you, Mr. Barton. Mr. Dingell for an opening statement, please.

OPENING STATEMENT OF HON. JOHN D. DINGELL, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MICHIGAN

Mr. DINGELL. Thank you, Mr. Chairman, and I commend you for your continuing vigilance in the matter of Toyota's recall related to sudden unintended acceleration. I am delighted to welcome our witnesses today, Administrator Strickland and Mr. Lentz of Toyota. I commend you, Mr. Chairman, for your insistence on vigorous, yet fair, oversight in this matter, for as you are well aware thorough oversight leads to effective legislation, and this subcommittee has been doing that for a long time. In view of that, I note that the Subcommittee on Commerce, Trade, and Consumer Protection will mark up the Motor Vehicle Safety Act of 2010 this afternoon.

Section 101 of that bill requires the Secretary of Transportation to promulgate a motor safety vehicle standard on electronic systems, which should enable him to determine whether such standard is reasonable, practicable, and appropriate. Our hearing today affords us the opportunity to examine the state of research both by government and private industry on these systems and to assess the feasibility of promulgating and implementing a federal motor vehicle safety standard covering them. To that end, Mr. Chairman, I intend to ask candid questions of our witnesses about the progress of their restrictive organizations that has been made in determining what, if any, effects surrounding environments have on electronic components in vehicles.

While I believe that Section 101 of the Motor Vehicle Safety Act is written with sufficient administrative discretion for the Secretary of Transportation, I want to be able to be sure that the department will be able to perform the research necessary to comply with the requirements of that section. That is an important question to be addressed. I would also note that the surrounding environments have in the past affected motor vehicle safety, and I would remind that electronic flux was a source of potential danger from unintended explosions of airbags in times past, something which caused injury and death to American people. Further, I will seek strict assurances from Toyota that it is taking seriously charges that electronic interference may have caused sudden unintended acceleration in the vehicles recalled late last year and early this year, and that Toyota is working diligently to assess them as well as correct them if need be.

And I want to be sure that they are doing the necessary research on the question of safety as opposed to just defensive measures for the corporation. I look forward to productive conversation today. And I thank you for your courtesy, Mr. Chairman. I observe again that your work here in this subcommittee has led to better legislation, good fact-finding, and far better service to the public interest. Thank you.

Mr. STUPAK. Thank you, Mr. Dingell. Mr. Gingrey, for opening statement, please, 3 minutes.

OPENING STATEMENT OF HON. PHIL GINGREY, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF GEORGIA

Mr. GINGREY. Thank you, Mr. Chairman. Today's hearing on Toyota and NHTSA's response to the problem of sudden unintended acceleration while topically important, I think from reading the provided testimony that this hearing will likely yield more questions than answers. In fact, many of the fundamental questions that members of this committee and that consumers have will likely remain unanswered today as both Toyota and NHTSA discuss the ongoing status of their reviews, the potential connection between unintended rapid acceleration and the electronic throttle control system. Mr. Chairman, the American people are certainly owed answers about the safety of their vehicles.

However, what the American people do not deserve is another hasty legislative response in the form of a bill that few have read, nobody understands, and that bears unintended consequences much worse than the consequences of inaction. However, once NHTSA and Toyota actually complete their various reviews of the potential flaws of automotive electronic systems, I believe that it will be very important for this committee to review those results, understand those results, and then act in a manner appropriate to those findings. Certainly, with automation and electronic engineering continuing to replace the traditional mechanisms, we must also ensure that we have the proper metrics to conduct diagnoses and ask the right questions to flush out the potential impacts of these systems on the safety of our automobiles. With that, Mr. Chairman, I thank you and I yield back.

Mr. STUPAK. Thank you. Mrs. Christensen for opening statement, please.

Mrs. CHRISTENSEN. Thank you, Chairman Stupak. Again, given that my 2 daughters, 3 grandchildren and I drive Toyotas, I am really pleased that we are having this hearing today to monitor the response of Toyota to the accidents and deaths attributed to the sudden unintended acceleration of the vehicles. I look forward to the testimony of Mr. Strickland and Mr. Lentz on what the testing has shown thus far, what responses and remedies are being employed, and also to hear that they are being applied in the U.S. territories, which are often overlooked, as well as in the 50 states. With that, I will yield back the balance of my time, Mr. Chairman.

Mr. STUPAK. Thank you. Mr. Griffith for opening statement, please.

OPENING STATEMENT OF HON. PARKER GRIFFITH, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ALABAMA

Mr. GRIFFITH. Thank you, Mr. Chairman. I would like to thank you and the ranking member for calling this important hearing today. In Huntsville, Alabama, the middle of my district, Toyota employs 777 people, build 6 cylinder and 8 cylinder engines, and recently has added the 4 cylinder engine to the plant. We employ approximately 1,000 people in this district. Toyota had done more than just be a good employer in Huntsville. They have given back to the community in many ways. In fact, during the recent slow down in production in response to the recession, Toyota did not lay off one permanent worker. During this time, they sent some em-

ployees out into the community while others stayed at the plant and worked together to streamline and improve the daily functions in both quality and safety.

Since this subcommittee has met to discuss Toyota the number of vehicle recall remedies is nearly 3–1/2 million. They have also taken steps to deal with communication problems between North America and Japan and commissioned a study to investigate the sudden unintended accelerations issues. I believe that Toyota has shown a good faith effort to fix problems and learn from these events to better serve consumers in the future, and it seems evident by recent sales that customers have faith in Toyota's ability to correct past problems.

I might add that the chairman of the committee seemed upset that there was no agreement from Toyota with Dr. Gilbert's findings. I find that not only acceptable but we have no one to corroborate Dr. Gilbert's findings either, so if we are going to base our discussion on a single individual's experiment and not a scientific method, I think we are maybe on the wrong track there. I don't think there is anyone more interested in making sure that their vehicles are safe than Toyota. I don't think there is anyone more interested in the safety of the public then Toyota as far as this situation is concerned. So it seems to me that there is an attitude that somehow we are not here in good faith to do what is best for the public, and I think we need to examine our attitude and maybe take a different approach. I yield back the balance of my time, Mr. Chairman.

Mr. STUPAK. Mr. Braley, opening statement.

Mr. BRALEY. Thank you, Mr. Chairman. I ask unanimous consent to submit my written statement and then just make some brief extemporaneous remarks.

Mr. STUPAK. All right. Mr. Latta.

Mr. BRALEY. No, no. I was asking for unanimous consent to submit my full statement.

Mr. STUPAK. Go ahead.

OPENING STATEMENT OF HON. BRUCE L. BRALEY, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF IOWA

Mr. BRALEY. During our last hearing on this very important issue, Ranking Member Barton drew on his experience as an engineer to challenge both Toyota and NHTSA to get to the bottom of this problem and to do so with a sense of clarity and purpose that had been missing in Toyota's approach to the possibility of an electronic component to the problem of sudden unanticipated acceleration. So when the ranking member stated at the conclusion of his remarks today, he was pleased that Toyota had hired an independent firm, I think it was based upon the representations that Toyota made at our last hearing that, in fact, it had hired Exponent and given it a mission to get to the bottom of this problem with an unlimited budget.

The only problem with that perception is it is contrary to the documents that I have been provided and the committee has been provided in response to requests for information I made at our last hearing because the documents we have been provided with show that Toyota's trial lawyers, not Toyota, engaged Exponent to con-

duct this work on December 7, 2009, and did not engage Exponent for the purpose of getting to the bottom of this problem but for the purpose of defending class action claims filed against Toyota and that is the problem with Toyota's response since our last hearing.

If you look at what has been done, it has been primarily an effort to try to attack the credibility of the sole witness who testified on the connection, the possible connection, between an electronic or computer failure and the problem of sudden unanticipated acceleration in Toyota's vehicles. And that is the disturbing question that we need answers to at this hearing today. We need to look at the financial relationship between Exponent and Toyota and try to get to the bottom of why so much time has been spent focusing time and resources attempting to discredit the work of Professor David Gilbert instead of getting to the root cause of this problem and determining once and for all whether electronic failure is a cause of the problem. That is why I look forward to the testimony of our witnesses, and I hope that eventually everyone involved in this investigation gets to that problem, and I yield back.

[The prepared statement of Mr. Braley follows:]

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Statement of Congressman Bruce Braley

Subcommittee on Oversight and Investigations

"Update on Toyota and NHTSA's Response to the Problem of Sudden Unintended Acceleration"

May 20, 2010

Thank you, Chairman Stupak and Ranking Member Burgess, for holding this important follow-up hearing examining Toyota and the National Highway Traffic Safety Administration's response to the problem of sudden unintended acceleration in Toyota vehicles. At our February hearing on this issue, it became clear that Toyota and NHTSA's response to the deadly problem of sudden unintended acceleration was slow and insufficient, and that Toyota was publicly denying the possibility that electronics could be playing a role in the problem without having conducted a thorough and credible investigation. Unfortunately, nearly three months after that hearing, it seems that Toyota has *still* failed to comprehensively

and credibly investigate Toyota's electronic throttle control system to find potential flaws.

At our February hearing, I raised questions about the work of Exponent, which Toyota hired to conduct an analysis of its electronic throttle control system with an unlimited budget, and about the financial relationship between Toyota and Exponent and its predecessor, Failure Analysis Associates. Unfortunately, it appears that Exponent has failed to conduct a comprehensive investigation of Toyota's electronic throttle control system, and has instead focused its time and resources on attempting to discredit the work of Southern Illinois University Professor David Gilbert, who testified at our last hearing that he was able to induce sudden unintended acceleration in a Toyota vehicle without the vehicle's computer recording the event through a diagnostic trouble code.

I'm seriously concerned about Toyota and Exponent's ongoing failure to conduct a credible investigation of Toyota electronics, and by reports that Toyota may have sought to develop a PR campaign to discredit Dr. Gilbert and Sean Kane, who also testified before the Subcommittee in February. It's outrageous to think that, at a time when Toyota should have a laser-like focus on definitively identifying and fixing a problem which has been linked to as many as 52 deaths, the company has instead been

focused on discrediting and questioning the integrity of other Subcommittee witnesses. I look forward to discussing these troubling allegations and to further exploring the work of Exponent and the financial relationship between Toyota and Exponent at today's hearing.

Shortly after our February hearing, I also wrote to Administrator Strickland and Secretary LaHood expressing my concerns about reports that NHTSA had received complaints from Toyota owners alleging that they'd experienced sudden unintended acceleration even after their vehicles underwent recall service to modify pedals and replace floor mats. I also inquired about all the steps NHTSA is taking to review Toyota electronics to determine whether they are a potential cause of the problem and to ensure effective repairs in all affected vehicles. I look forward to hearing from Administrator Strickland on these critical issues today.

The top and urgent priority of Toyota, NHTSA, and all of us here today must be to ensure the deadly problem in Toyota vehicles is identified and fixed, and to ensure the safety of all Americans on the road. Thank you, Chairman Stupak, for your continuing attention to this important issue. I hope that we will continue to follow this issue and hold any appropriate follow-up investigations and hearings until this dangerous problem is resolved once and for all.

Mr. STUPAK. Mr. Braley, I am sorry I didn't hear you before when you had asked for your opening statement to be made part of the record. It should be noted that all opening statements of members of the committee, their opening statements will be part of the record. I also move that the contents of our document binder be made part of the record. Without objection, so be it. My intent is, as members know, we have the President of Mexico speaking around 11:00. Let us try to get through all opening statements and if we go over a little bit, let us try to get our opening statements done before we have to recess for a bit. Now, Mr. Latta, for an opening statement.

OPENING STATEMENT OF HON. ROBERT E. LATTA, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF OHIO

Mr. LATTA. Thank you very much, Mr. Chairman. Mr. Burgess, thanks very much for holding this hearing today. First and foremost, I believe it is important that these hearings are held to get to the facts regarding the sudden unintended acceleration. Tragically, according to NHTSA, 52 people have died in the past decade due to the incidents of the sudden unintended acceleration of Toyota vehicles. NHTSA has initiated several queries into Toyota recalls and the agency has leveled a $16.4 million fine on the company. Additionally, NASA and the National Academy of Sciences has been enlisted by NHTSA to undertake a study of the issue. Specifically, NASA will examine unintended acceleration in Toyota vehicles and the National Academy of Sciences will analyze that acceleration and the role of the electronic vehicle systems across the automobile industry.

It is also my understanding that neither is complete at this time. Through its recall and deployment of swift market analysis response or smart teams, third party analysis, and the addition of industry-leading safety features to new models Toyota is working to provide quality and safe vehicles. I hope this translates into increased safety level and assurance for Toyota drivers. Safety is extremely important especially when it comes to the automobile industry. I am concerned by any precedent that is set by the government that the government knows best when it comes to vehicle design. Later today, I will participate in a markup of the Motor Vehicle Safety Act of 2010, which will attempt to dictate to auto manufacturers the design of certain parts. Government mandates have a detrimental effect on the industry and turn the economy.

I represent the 5th congressional district of Ohio, which is the largest manufacturing district in the state and home to many auto suppliers. The technology involved in automobile engineering certainly has changed and advanced over the years, and it is important that Toyota customers and the American public and policymakers understand the electronically controlled throttle system and the potential for unintended acceleration in Toyotas and all other vehicles. While I was not yet a member of the Energy and Commerce Committee for the February hearing, I look forward to the hearing today and hearing the testimony from the witnesses on the panel. Mr. Chairman, I yield back. Thank you.

Mr. STUPAK. Thank you, Mr. Latta. Ms. Schakowsky, for an opening statement, please.

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

Ms. SCHAKOWSKY. Thank you, Mr. Chairman. Three months ago this subcommittee held a hearing about sudden acceleration but many questions remained unanswered. In particular, we are still unclear about cases where sticky pedals and flawed floor mats were ruled out as possible causes. One of the few people who proposed a possible answer, as has been mentioned, was David Gilbert, an associate professor of automotive technology at Southern Illinois University in my home state. Dr. Gilbert testified about research he had done in which he was able to replicate a situation where sudden unintended acceleration was caused by electronic signals but not recorded on the vehicle's event data recorder.

At the same hearing, Mr. Lentz, who is also here today testified on behalf of Toyota saying, "In December we asked Exponent, a world class engineering and scientific consulting firm, to conduct a comprehensive, independent analysis for electronic throttle control system with an unlimited budget." But what did Exponent come back with? In March they released a report that did not conduct a comprehensive report of Toyota's electronic throttle control system and possible flaws. Instead, their report was entirely a critique of Dr. Gilbert's experiment. Of course, scientific research can be questioned and disputed but Exponent's efforts did not even attempt to find out what the American people or this subcommittee want to know. Our constituents want answers and they want an in-depth investigation that identifies the causes of potentially fatal malfunctions in their vehicles.

I am glad that NHTSA has moved forward and has asked both NASA and the National Academy of Sciences to help conduct an investigation that encompasses not just Toyota but all vehicles with electronic throttle systems. I look forward to hearing from Mr. Strickland about that research and when we can expect to hear some results. Thank you, Mr. Chairman. I yield back the balance of my time.

Mr. STUPAK. Thank you, Ms. Schakowsky. Ms. Blackburn, for opening statement, please.

OPENING STATEMENT OF HON. MARSHA BLACKBURN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF TENNESSEE

Ms. BLACKBURN. Thank you, Mr. Chairman, and welcome to our witnesses. I will have to say, and I know you have heard it from many others, we have got concerns over the timing, and I have concerns over the tone of this hearing, and it seems like we may be a little bit premature in convening this today. For the record, Mr. Chairman, I would like to submit a letter that I sent to Chairman Dingell in October, 2007, asking for a hearing to look into the serious concerns in Tennessee over sudden acceleration in the Toyota Tacoma. That letter again was in October, 2007. Perhaps if we were a little more proactive in investigating this issue 3 years ago, we would not be in the position that we are now.

All too often, Congress is reactive instead of taking action in a timely manner when something is brought to our attention. As a

result, we still don't have definitive answers as to what precisely caused the sudden unintended acceleration, and it is naive to believe any of the important answers are going to come to light in this hearing today. I fear that what we are doing is putting the cart before the horse. Many of our constituents look at these hearings and they see this as grandstanding in an attempt to try and vilify a corporation. I have heard from constituents who are employees or suppliers to Toyota. They are very concerned that this may be something again that is being done to vilify and to score cheap political points instead of productively moving forward in an effort to actually fix and effectively address this serious issue that was first brought to the attention of this committee in October, 2007.

From what I understand from NHTSA and Exponent, there is not even a viable hypothesis put forward as to this issue and a resolution. That being said, again I want to welcome our witnesses, and I am looking forward to hearing from them. And I yield back the balance of my time.

Mr. STUPAK. Thank you. It should be noted that Mr. Gonzalez, a member of the full committee, is here, cannot give an opening statement, but when we go to questions he will certainly be allowed to ask questions, so thank you for being here, Mr. Gonzalez. That concludes the opening statements by all of our subcommittee members. We will now move to our first panel. On our first panel we have the Honorable David Strickland, who is the Administrator of the National Highway Traffic Safety Administration. Mr. Strickland, as you know, it is the policy of this subcommittee to take all testimony under oath. Please be advised that you have the right under the rules of the committee to be advised by counsel during your testimony. Do you wish to be represented by counsel?

Mr. STRICKLAND. No, I do not.

Mr. STUPAK. I am going to ask you, please rise and raise your right hand to take the oath.

[Witness sworn.]

Mr. STUPAK. Let the record reflect the witness replied in the affirmative. You are now under oath. If you would like to begin with an opening statement, Mr. Strickland, we would appreciate it.

TESTIMONY OF DAVID L. STRICKLAND, ADMINISTRATOR, NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

Mr. STRICKLAND. Thank you, Chairman Stupak, Ranking Member Burgess, and members of the committee. We appreciate this opportunity to update you on the activities of the National Highway Traffic Safety Administration with regard to unintended acceleration involving Toyota vehicles. NHTSA has been very active on this subject since Secretary LaHood testified before this committee in February. Last week, Secretary LaHood and I traveled to Japan to meet with officials of the Japanese government and Toyota. Toyota officials informed us of changes they have recently made in their management and processes to ensure that Toyota officials here in the U.S. have a direct role in making vehicle recall decisions.

The Secretary and I made it very clear to Toyota, including Chairman Toyoda himself, that the value of these organizational changes will be determined by the company's future safety actions.

NHTSA and the Department of Transportation will be watching. As you know, we initiated 3 separate actions in February. The timeliness query related to the pedal entrapment recall, a timeliness query related to the sticky pedal recall, and an overall recall query looking at both of those recalls, if they were sufficient in scope and whether there other matters related to unintended acceleration in Toyota vehicles.

On April 19, Toyota agreed to pay $16,375,000 in civil penalties in connection with the sticky pedal timeliness query. This is the maximum penalty that NHTSA can access under current law. We believe the penalty was warranted because Toyota failed to inform us in a timely way about that safety defect. Concurrently, we continue to review the large number of documents submitted by Toyota in response to the pedal entrapment query. We have not reached a decision yet on whether the facts of that case warrant a penalty. NHTSA is also reviewing an extremely large volume of documents received in response to the recall query. We have contracted with the Department of Justice to help us categorize and analyze those documents. That task will take us some time, but it is well underway.

NHTSA has also started 2 research efforts to address the issue of unintended acceleration. The National Academy of Sciences, the nation's most respected independent body of top scientific experts will examine the broad subject of unintended acceleration and electronic vehicle controls across the entire automotive industry. The academy has begun the process of identifying panel members and the panel will be established by July. The panel then expects to complete its work within 15 months. The results of the work of the National Academy of Sciences will be important to NHTSA, not only because of unintended acceleration but also to provide advice on a range of electronics issues that might affect motor vehicle safety as new electronic crash avoidance and other technologies are rapidly proliferating within the vehicle fleet.

Separately, we have enlisted NASA scientists with expertise in areas such as computer controlled electronic systems, electromagnetic interference, and software integrity to help tackle the issue of unintended acceleration in Toyota vehicles. NASA's review will be comprehensive and it will assist us in determining whether Toyota vehicles may contain safety defects that would warrant a formal investigation. We believe that the pressure applied by NHTSA has been instrumental in bringing about all the recalls Toyota has undertaken to address unintended acceleration. We will go wherever the evidence leads us to address the root causes of unintended acceleration. We will open additional investigations and push for recalls where warranted.

It is our hope that Toyota's recently revamped approach to more effectively deal with safety defects will reveal a Toyota that is quick to respond to all vehicle safety issues including sudden unintended acceleration. Of course, NHTSA is working and will continue to work with this committee and with the Senate Commerce Committee on legislative proposals that would address the unintended acceleration issue across the industry. If enacted, this legislation would significantly increase and enhance NHTSA's authority and the agency's leverage in dealing with all manufacturers. This

leverage would be particularly important in cases where manufacturers are reluctant to perform the necessary safety recalls or who are not completely truthful in submitting information to NHTSA. Thank you very much, Mr. Chairman and Ranking Member Burgess, and I look forward to answering the committee's questions.

[The prepared statement of Mr. Strickland follows:]

STATEMENT OF
THE HONORABLE DAVID L. STRICKLAND
ADMINISTRATOR
NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION
BEFORE THE

COMMITTEE ON ENERGY AND COMMERCE
SUBCOMMITEE ON OVERSIGHT AND INVESTIGATIONS
U.S. HOUSE OF REPRESENTATIVES

HEARING ON

UPDATE ON TOYOTA AND NHTSA'S RESPONSE TO THE PROBLEM OF SUDDEN UNINTENDED ACCELERATION

May 20, 2010

Chairman Stupak, Ranking Member Burgess and Members of the Committee:

I appreciate the opportunity to provide the committee an update on the activities of the National Highway Traffic Safety Administration (NHTSA) concerning unintended acceleration incidents involving Toyota vehicles. Since Secretary LaHood testified before this committee on this subject in February, NHTSA has been very active.

Last week, Secretary LaHood and I traveled to Japan to meet with officials of the Japanese government and Toyota. We have a very good working relationship with our counterparts in the Japanese government and had a productive meeting with them. Our meeting with Toyota provided another opportunity to emphasize to the company's leadership the importance of making the safety of its vehicles the company's highest priority. The company has recently made changes in its organization and processes that are designed to ensure that Toyota officials here in the United States have a direct role in making vehicle recall decisions for the company. We reinforced with Toyota officials, including Chairman Toyoda himself, that the value of these organizational changes will be determined by the company's future safety actions.

As you know, we initiated three separate actions in February: a timeliness query (TQ) related to the pedal entrapment recall; a TQ related to the "sticky pedal" recall; and a recall query (RQ) looking at whether those two recalls were sufficient in scope and whether there are other matters related to unintended acceleration in Toyota vehicles that should have been addressed by the company. On April 19, Toyota agreed to pay $16,375,000 in civil penalties in connection with the sticky pedal TQ. This is the maximum penalty available under current law. NHTSA believed the penalty was warranted due to the company's failure to inform the agency in a timely way about the safety defect involved in that recall.

We are continuing to review the large number of documents submitted by Toyota in response to the pedal entrapment TQ. We have not reached a decision yet on whether the facts of that case warrant a civil penalty. We have recently begun to review the huge volume of documents received in response to the RQ. The documents are so numerous that we have entered into an agreement with the Department of Justice to help us categorize and analyze the documents. That task will take some time.

At the same time we have undertaken two important reviews related to unintended acceleration. The first is a review of the electronic throttle control (ETC) system in Toyota vehicles. This review entails in-depth research into the design, function, and safety measures associated with that system, including all of its electronic components and software. The National Aeronautics and Space Administration (NASA) is assisting us in this effort, which is well underway. NASA brings its great expertise in electronic control systems, forensic analysis, and fail-safe design to the project. NASA's expertise is being complemented by specific automotive electronics and safety systems expertise from both inside and outside of NHTSA. The team is working to identify any vulnerabilities and possible failure modes in the ETC system that can lead to unintended acceleration and that involve conditions that can realistically be expected to occur in consumers' use of these vehicles. However, as is typical in any review of the design and operation of very complex systems, we and our partners on this project are finding the search for possible flaws quite time consuming. We are hoping to complete this review of the ETC system by the end of August, but that will depend on just how quickly the necessary analysis and testing can be done. If we do find such possible failure modes that might explain any of the unintended acceleration events reported to NHTSA, we will open a defect investigation.

The second review will be conducted by an independent panel of experts chosen by the National Academy of Sciences. This group will study the broad subject of unintended acceleration and electronic control systems across the automotive industry. They will look at subjects such as electronic vehicle control systems' design and reliability (including hardware and software issues), electromagnetic compatibility and electromagnetic interference, existing relevant design and testing standards, human factors and the possibility of human error, and mechanical failure. The panel will make recommendations to NHTSA on research, rulemaking, and enforcement activities and the personnel, infrastructure, and financial resources required for NHTSA to help ensure the future safety of ETC systems and other electronic vehicle control functions. NAS has begun the process of identifying panel members, and we have been informed that the panel will be established by July and will complete its work within 15 months. We think this group's work comes at a very opportune moment, not only to provide advice to the agency on the unintended acceleration issue, but also to provide such advice on the range of electronics issues that might affect motor vehicle safety as new electronic crash avoidance and other technologies rapidly proliferate in the vehicle fleet.

The major recalls that Toyota has initiated concerning unintended acceleration involved two distinct issues, pedal entrapment by floor mats and "sticky" pedals resulting from a particular defective pedal. Some consumers who have had their vehicles repaired under these recalls have complained to NHTSA about incidents of unintended acceleration occurring after the repairs. NHTSA has spoken to nearly a hundred vehicle owners and inspected a number of vehicles involved in these incidents. We have found just a few instances where a dealer apparently performed a recall remedy incorrectly and have worked with Toyota to ensure corrections were made. We have not found evidence that properly performed recall repairs did not address the problem they were intended to address. That is, we have not seen pedal entrapment in a vehicle that has had the correct pedal entrapment repair or a sticky pedal in a vehicle that has had the correct repair. Nor have we yet found evidence from these recent vehicle inspections that gives us the basis for opening a new defect investigation of unintended acceleration in these vehicles. We will continue to look for such evidence through field inspections, review of incoming complaints and early warning data and, of course, the comprehensive review of Toyota's ETC system discussed above.

Pressure applied by NHTSA has been instrumental in bringing about all of the recalls Toyota has undertaken thus far to address unintended acceleration. We will go wherever the evidence leads us to address the root causes of this phenomenon, including additional investigations and recalls if necessary. Toyota's recently revamped approach to its recall responsibilities will hopefully result in the company's being very proactive in addressing the unintended acceleration issue wherever it sees opportunities for improvement.

Of course, we are working with this committee and the Senate Commerce Committee on legislative proposals that would address the unintended acceleration issue across the industry through various requirements for new standards. The legislation would also give NHTSA enhanced authority to address situations where manufacturers are reluctant to perform necessary safety recalls or not completely truthful in submitting information to the agency.

Thank you and I look forward to answering your questions.

Mr. STUPAK. Thank you, Mr. Strickland. We are going to stand in recess for 1 hour. The President of Mexico is here. They are gathering on the House Floor. We must recess during this period of time, so we will recess for 1 hour. We will have you come back in 1 hour. We will go right to questioning then by members of the committee.

Mr. STRICKLAND. Yes, sir.

Mr. STUPAK. This subcommittee stands in recess for 1 hour.

[Recess.]

Mr. STUPAK. The committee will resume. When we left off, Mr. Strickland had testified, so we will begin with members' questions. I will begin.

Mr. Strickland, in our first hearing on sudden unintended acceleration in Toyota vehicles, an automotive expert, Dr. Gilbert, who was mentioned a couple of times today, testified before the committee about an experiment he had run on Toyota cars and trucks. Dr. Gilbert reported that he had been able to induce sudden unintended acceleration without having the vehicles' computers detect a problem. In briefings with committee staff, several academics, and independent engineers have described Dr. Gilbert's work as a sensible, reasonable, and legitimate starting point for an investigation into potential causes of sudden unintended acceleration. These academics and engineers have discussed with the committee a variety of real-world events that could lead to this sort of resistive—to the sort of resistive Dr. Gilbert induced in his lab.

But Toyota's response to Dr. Gilbert's testimony was not to investigate his work seriously. Instead they have aggressively attacked Dr. Gilbert's credibility and motives. It is my understanding that NHTSA has taken a different approach with Dr. Gilbert and has, in fact, invited him to its testing facility so that he can discuss his work with federal officials investigating the sudden unintended acceleration in Toyota vehicles and cars. Is that correct?

Mr. STRICKLAND. Yes, sir, that is correct. Actually, the engineers at NHTSA have been in fairly regular conversation with Dr. Gilbert to arrange a time, and it is my understanding that Dr. Gilbert will be visiting our facility in East Liberty, Ohio, within the next 2 weeks where he will be given access to our laboratory and our facilities to replicate his work, to discuss with our engineers and also with the NASA folks as well this—this work in addition to other experts. It is very important for us to get to an answer, and we are welcoming Dr. Gilbert's participation.

Mr. STUPAK. OK. Well, you know, Toyota described Dr. Gilbert's work as being phony, parlor trick, words like that. I expect you would not invite Dr. Gilbert to participate unless you thought he had something to offer to this discussion.

Mr. STRICKLAND. No. Absolutely not. We believe that Dr. Gilbert has created—has replicated a situation where as you described, Mr. Chairman, that he could have an incident of unintended acceleration without there being a FALCO being picked up in the ECM. That is the core of everyone's question, and we have to take his work very seriously.

Mr. STUPAK. In—the last time you testified and Secretary LaHood testified you were in the process of hiring engineers. Has NHTSA hired more engineers?

Mr. STRICKLAND. We are right now in the process of recruiting several. We have our certifications on them, and we are beginning the interview process. We hope to get a number of folks across electrical engineering, software engineering, and other electronics issues onboard very soon.

Mr. STUPAK. The White House in this last week or two put out an initiative which they are trying to speed up, if you will, the hiring process——

Mr. STRICKLAND. Yes, sir.

Mr. STUPAK [continuing]. From 5 months to about 5 weeks or 6 weeks. Have you found that hiring process to be a burden in trying to obtain the expertise that you need in NHTSA?

Mr. STRICKLAND. We are in the process of executing through the quick-hire process of the Administration's reforms. We definitely appreciate these new reforms, and we are using them to advantage or how to get folks onboard as quickly as we can. The normal process does have—does require some energy, and the reforms are very helpful.

Mr. STUPAK. Let me ask you this. Earlier this week Toyota indicated it would recall Lexus LS vehicles. Has there been a recall issued yet? They said it might be as early as tomorrow.

Mr. STRICKLAND. My understanding, sir, is that Toyota will be issuing their required documents to NHTSA on Friday. We will——

Mr. STUPAK. So they haven't——

Mr. STRICKLAND. They haven't officially announced a recall to NHTSA, but it is my understanding that will happen tomorrow, but they have informed NHTSA of the issue that arose in Japan and their plan of action.

Mr. STUPAK. All right. The issue rose in Japan, and I think there is about another—this is their top line of the LS Lexus vehicles. Those vehicles were also sold here in the United States. Correct?

Mr. STRICKLAND. That is correct.

Mr. STUPAK. Have you worked with NHTSA on this recall? I mean, I am sorry. Have you worked with Toyota on this recall?

Mr. STRICKLAND. No. Toyota actually—their work was with the Japanese Ministry of Land, Infrastructure, and Transport, and through their work found that there was a defect regarding the steering mechanism. Once that was found, they reported to NHTSA about their plans in Japan and planned to take the same steps here in the United States and were working through the issues of the remedy, which we—I would imagine that will be announced on Friday.

Mr. STUPAK. All right. Have you gone back through your database to see if there have been steering problems with these Lexus LS?

Mr. STRICKLAND. Yes, Mr. Chairman, we have. To explain it a little more fully, the vehicle population involves the Lexus LS for the, I guess, end-of-model year 2009, through 2010, which is a vehicle population of 3,800 vehicles here in the United States. The Office of Defects Investigation has gone—is going through and has gone through our database to see if there were similar steering issues. We have not found a complaint as of yet, but we are continuing to search the database.

Even absent that, we appreciate Toyota being forthright and taking action in and of our own work, but we are looking to make sure that if we have had a similar issue. There were only 12 of these incidents in Japan if I am not mistaken.

Mr. STUPAK. The last hearing in February I asked the question of all the witnesses, Mr. Lentz in particular indicated that the mats and the sticky pedal accounted for about 16 percent of the unintended acceleration. Have you found—have NHTSA through its investigation found any other cause for the other 84 percent of the sudden unintended acceleration that remains unexplained?

Mr. STRICKLAND. We are working through several field investigations. We have 38 field investigations ongoing looking at the span of Toyota's unintended acceleration issues. We are leaving no theory unquestioned or unturned. We have found no evidence of additional causes of the defect, but that does not mean we have stopped looking. We are going to turn over every stone. Not only our research ongoing but NASA and the upcoming National Academy of Sciences' study but our work is also ongoing as to any other possible issues that could be creating this fault.

Mr. STUPAK. So we are no closer to resolving the unexplained 84 percent of the sudden unintended accelerations?

Mr. STRICKLAND. That is correct, sir.

Mr. STUPAK. Mr. Burgess for questions.

Mr. BURGESS. Thank you, Mr. Chairman. Mr. Strickland, the last hearing we had the—Secretary LaHood said that Toyota was—had made some improvements and was going to be—and Toyota stated they had appointed a chief quality officer. Then we had the whole issue come up with the 2010, Lexus GS460. So did that give you an ability to evaluate Toyota's responsiveness to the problem with the Lexus as compared to the earlier responses?

Mr. STRICKLAND. Yes, Mr. Burgess, it has, and I made a comment after the Lexus GS460 recall, the Consumer Reports recall with the electronic stability control issue. I have found since I have taken office in January that Toyota has been much more responsive in——

Mr. BURGESS. I don't mean to interrupt but my time is going to run out quickly. Did the quality officer make a difference then in that environment?

Mr. STRICKLAND. Well, the quality officer—I was just informed of his hiring. They changed the process. Overall the result is we have seen better responses. Toyota is working through the organization issues, but these past two recalls have been—I have been very happy with the responsiveness.

Mr. BURGESS. OK. One of the issues with Professor Gilbert's testimony last time, one of the questions that he couldn't answer when I asked was how—to give us a real-world scenario of how that situation that he described to us would exist. Would it be chaffing of a cable holder, how would you get the correct amount of resistance placed across the two wires, and I never really got a straightforward answer to that.

In what you have seen so far has—is that a question that has been satisfactorily answered in your mind? What is the real-world situation that would have to occur in order to meet the conditions that Dr. Gilbert outlined?

Mr. STRICKLAND. That is, I mean, I will definitely have my staff and my engineers get back to you after the hearing for, I guess, a more technical response, but we are inviting Dr. Gilbert out to East Liberty for him to replicate his tests. So we haven't had an answer in terms of what would be the real-world situation to create this fault, but that is something that we want to talk to Dr. Gilbert about and have him replicate the——

Mr. BURGESS. Will NASA evaluate——

Mr. STRICKLAND. Yes.

Mr. BURGESS [continuing]. That real-world scenario also?

Mr. STRICKLAND. Absolutely.

Mr. BURGESS. Can this committee expect to see the results of that evaluation?

Mr. STRICKLAND. Yes. Absolutely. All of the work will be made public and provided to the committee.

Mr. BURGESS. Now, in addition to meeting with Dr. Gilbert, are you planning to meet with Exponent?

Mr. STRICKLAND. My understanding is the staff is going to be contacted by Exponent, and we will be having conversations with every expert working in this area, but we have not had a conversation with Exponent as of this point.

Mr. BURGESS. Now, your contract with NASA states that it will provide all coordination with independent groups offering opinions on possible causes of unintended acceleration. Have any of the independent groups asked to meet with NASA?

Mr. STRICKLAND. My understanding is that there have been numerous conversations with experts around the country and universities. I will be happy to get back to you on the record about which conversations have happened and which ones are to be scheduled.

Mr. BURGESS. OK. Has NHTSA or NASA refused any meetings with any particular groups?

Mr. STRICKLAND. No. Absolutely not.

Mr. BURGESS. The—and you will make that other information available to us?

Mr. STRICKLAND. Absolutely, sir.

Mr. BURGESS. Now, when we—and I don't have the data in front of me unfortunately any longer, but if we could just look at the timeline for the unintended acceleration and the introduction of electronic throttle control. The two seem to be superimposed events that occurred about in 2002.

But to the best of my understanding there really—through all of your work there has not been a problem identified with the electronic throttle control other than the testimony we have had from Professor Gilbert.

So is that the only avenue that is of pursuit that is occurring right now?

Mr. STRICKLAND. Well, we are looking at the whole, the entire Toyota fleet regarding this issue through our field investigations, but in terms of how we found a defect regarding the electronic auto control system from our past work, we have not at this point, but that is also the reason why we are investing so heavily into making sure that we have a full scope of every answer. So that work is ongoing continually, but our past work hasn't shown a defect.

Mr. BURGESS. Now, was my email correct that I alluded to about the Rhonda Smith car? Chairman Barton, Ranking Member Barton said find the car and tear it apart and find out the problem. You did look and right now nothing remarkable. Is that still the answer?

Mr. STRICKLAND. That is still correct. The Smith's vehicle is one of our test fleet. There is over 20 vehicles total. We have begun work on looking at her vehicle in addition to the rest of the fleet, and we will be continuing work as part of our investigation with NASA.

Mr. BURGESS. Now, when—as I recall Ms. Smith's testimony, it was very compelling when she gave it here in committee. One of her complaints, if you will, was that no one at Toyota would listen to her, but in fact, no one at NHTSA would listen to her.

In light of what you have found with looking at the car, are you comfortable that NHTSA's previous evaluation of the vehicle shortly after the incident was as thorough as it needed to be and that the consumer's complaints were adequately addressed? Or should more care have been taken at the time that the complaint actually occurred?

Mr. STRICKLAND. I am very confident of the work that the Office of Defects Investigation did for the Smith vehicle. We deployed one of our best investigators, and it was a very extensive record of his work and his conversations. I reviewed it, and I believe that everything that should have happened in that investigation was—did happen, and I am very happy with the work.

Mr. BURGESS. And that was the work that occurred right after the incident?

Mr. STRICKLAND. That is correct.

Mr. BURGESS. Let me ask you this. When Secretary LaHood was here, I had—I have a copy of the publicly available NHTSA report on the inspection of a Lexus that was damaged in a catastrophic accident in San Diego, the Mark Saylor accident. There is a portion of the report that is redacted, paragraph five.

Mr. STRICKLAND. Yes.

Mr. BURGESS. I had asked Secretary LaHood if I could—I don't need to have a copy in my hands, but I would like to look at the unredacted report. I am willing to come down to the Department of Transportation or to your agency to make that review. I understand there may be sensitive information that the family would not want out in the public domain, but I do think it is important that members of this committee be able to review an unredacted report of this accident.

Will you help me get that information that I have asked Secretary LaHood to provide to me as a member of the committee?

Mr. STRICKLAND. Absolutely. I will definitely refer you to our Chief Counsel, Kevin Vincent, to—I believe there is Privacy Act implications with that information, but anything that—as long as we are doing everything within the law and the provisions and the information to the Congress, we will definitely assist you in that regard.

Mr. BURGESS. I would remind you the committee has subpoena power.

Mr. STRICKLAND. I understand that. Yes, sir.

Mr. BURGESS. All right. Thank you, Mr. Chairman. I will yield back.

Mr. STUPAK. Yield back? You are over 2 minutes.

Ms. Christensen for questions, please.

Mrs. CHRISTENSEN. Thanks. Thank you, Mr. Chairman. Mr. Strickland, in your testimony and we have heard it from several members that Toyota paid $16,375,000 in civil penalties, and in your testimony you say that is the maximal penalty available under current law.

Do you think that that is an adequate cap?

Mr. STRICKLAND. No, madam. I believe that the size of the regulated manufacturers under NHTSA's regime is some of the largest multi-national corporations on the planet, and on occasion I think a $16 million fine may not necessarily give the correct deterrent affect.

I have testified several times that I believe that the cap should be significantly raised. I know in the Motor Vehicle Safety Act of 2010, the committee thought to remove the cap and allow NHTSA the discretion to properly size a penalty. I believe that is the correct approach.

Mrs. CHRISTENSEN. Thank you. You also say in your testimony that you haven't found a basis for opening up any new defect investigations on unintended acceleration. What is the threshold? What would trigger a reopening of the investigation?

Mr. STRICKLAND. Well, the two investigations are ongoing in regards to time limits. So what we are looking for is any document or indication that Toyota knew of a defect that posed an unreasonable risk to safety, and if they did not inform NHTSA within 5 business days of that discovery, they are in violation of the Safety Act and therefore, we would take action. We are reviewing several hundred thousand documents in that regard. When we have completed our review, if we had made a finding that there may be an issue regarding a violation of the timeliness of mandates of the Act, we will take action once again, but that is—we have made no conclusions. The work is ongoing.

Mrs. CHRISTENSEN. Thank you. Just one other question. As I recall in the last hearing a lot of the decisions were being made in Japan, at Toyota in Japan, and in your testimony you talk about meeting with the counterparts, your counterparts in the Japanese government.

So how do you—how would you assess their effectiveness, their independence, their commitment to strong oversight?

Mr. STRICKLAND. The Road Transport Bureau and the Japanese Ministry of Land, Infrastructure, and Transportation is a very vigorous agency that has a very different approach and mandate under Japanese law. They are very committed to safety. They do have a different relationship with the manufacturers. It is statutorily more collaborative than the—how NHTSA's relationship is with the manufacturing, manufacturers here in the United States.

However, they are great public services, great engineers, and they do a solid job for the Japanese people in terms of making sure they create a safe environment in terms of the handling of their vehicles.

But we do have different approaches, but I have every confidence that our counterparts are just as involved and just as intent upon making sure that the fleet that Toyota puts on the road is safe.

Mrs. CHRISTENSEN. Thank you. I don't have any other questions, Mr. Chairman.

Mr. STUPAK. Thank you, Ms. Christensen.

Mr. Braley for questions, please.

Mr. BRALEY. Thank you, Mr. Chairman, and welcome back, Administrator Strickland.

Mr. STRICKLAND. Mr. Braley, thank you.

Mr. BRALEY. It has been awhile since our last hearing on this topic where you testified, and I am going to start with a little housework.

Mr. STRICKLAND. Yes, sir.

Mr. BRALEY. Since that last hearing I have sent you three letters, one on March 3, one on April 22, and again last week on May 14, requesting information on complaints by Toyota owners who said they had experienced sudden unintended acceleration even after their vehicles underwent recall service to modify pedals and replace floor mats. And in those letters I also requested information about the steps NHTSA was taking to review Toyota electronics and ensure effective repairs in all affected vehicles, and to this date I have yet to receive a response from you or your department.

Can you give me some indication as to when I can expect a response to those inquiries?

Mr. STRICKLAND. Monday or Tuesday. If it is Tuesday, you will get it very early Tuesday. Mr. Braley, it is my responsibility to make sure that you, any member of this committee, or any member of the Congress, gets a timely response. It is my responsibility that it happens. I apologize that you have not received that response. I will make sure that happens immediately and on a foregoing basis that you get a timely response.

Mr. BRALEY. Thank you. I appreciate that.

Do you have a sense as you sit here today how many reports NHTSA has received of sudden unintended acceleration in previously serviced Toyota vehicles?

Mr. STRICKLAND. I—we have had a number of reports, especially within, I guess within the February, March timeframe period after repairs were executed. We have conducted numerous interviews and done field investigations. I will definitely get back to you on the record with the specific number.

I do know for a fact that the number of those remedy repairs of complaints have markedly decreased since March. I know that our staff has worked very closely with Toyota and informed them of our findings. There were some issues with how the dealers were applying repairs that—and I know that Toyota made upon our request, made several modifications to the instructions to the dealers on how they apply the remedies, and we have seen a marked decrease in the complaints.

But we are continuing to making sure that the remedy is properly applied and any consumer that is still having issues, that we follow up.

Mr. BRALEY. Are those complaints on previously serviced vehicles being forwarded to the entities such as Exponent or the NASA investigators who are looking into the potential link between an electronic problem and the issue of sudden unintended acceleration?

Mr. STRICKLAND. I can't speak to Exponent getting direct access to our work or our data on request. I mean, they are positioned as any private citizen in terms of a FOIA request or anything of that nature. We are not collaborating with Exponent.

NASA is getting everything that we have in regard to our work on sudden unintended acceleration, including those remedy repair issues and in addition to all the documents from Toyota. So we are—NASA is getting those documents. I don't know if Exponent has made a request of that.

Mr. BRALEY. Now, have you been provided with copies of the materials that Exponent has submitted to the committee in response for request for information about their work product in connection with this investigation?

Mr. STRICKLAND. I have not, Mr. Braley, but I have been made aware of some of the responses by my staff.

Mr. BRALEY. Were you aware that the committee has been provided with a report from Exponent that is titled, "Evaluation of Gilbert Demonstration?"

Mr. STRICKLAND. Yes, I am aware of it, sir.

Mr. BRALEY. And that we have also been provided with a PowerPoint presentation with a similar title, "Evaluation of Dr. Gilbert's Demonstration?"

Mr. STRICKLAND. Yes, sir. I am aware of it.

Mr. BRALEY. Have you seen any other reports in any—in either a preliminary, a draft, or a final form from Exponent detailing its work analyzing the potential problem of sudden unintended acceleration in Toyota vehicles?

Mr. STRICKLAND. No, sir, I have not.

Mr. BRALEY. Were you aware that Exponent has billed approximately 11,000 hours of work since the beginning of this year on this particular investigation?

Mr. STRICKLAND. I was not aware of that, but that is a significant amount of work.

Mr. BRALEY. And because it is a significant amount of work, do you find it at all surprising or disturbing that the documents we have received to date from Exponent are limited specifically to the testimony of one witness who testified at our previous hearing on February 23?

Mr. STRICKLAND. That would not be NHTSA's approach if what—our work plan and our work would be incredibly detailed in aspecting every minute of what we do. I would imagine that the committee would have the expectation, the same expectation of Exponent. The fact that you don't have it I would imagine it being very troubling to the committee.

Mr. BRALEY. All right. Thank you very much. I yield back.

Mr. STUPAK. Mr. Waxman for questions, please, sir.

Mr. WAXMAN. Yes. Mr. Strickland, I am just following up on that line of questioning. Do you believe it is possible to conduct solid engineering work if you don't have a written plan for the research,

you don't keep a record, the written record of the work, which is apparently the situation with Exponent?

Mr. STRICKLAND. It would be my expectation of NHTSA, NHTSA's engineers that we have a proper workflow plan, engineering analysis. Everything should be properly documented and also in terms of our work with NASA, we have to be prepared for a peer review to be conducted by our Volpe Center in Cambridge, Massachusetts.

So that would be an incredibly different cap, how we would execute a research plan. So I would say that that would not be my expectation if I was dealing with it on the private sector.

Mr. WAXMAN. We have learned that Toyota's defense counsel controls Exponent's work. They review everything that Exponent does, and they have the right to prevent Exponent from releasing unfavorable results.

Does this concern you? Toyota is relying on Exponent to do its research, and Exponent is being directed by Toyota's defense counsel. Is this the way you think an investigation ought to be handled?

Mr. STRICKLAND. Well, there is two components, I mean, not to speak for Toyota. They can clearly speak for themselves.

Mr. WAXMAN. They are going to speak for themselves soon.

Mr. STRICKLAND. But there is, you know, preparation for a litigation, and then there is also a scientific investigation into the cause of a problem, and those could be mutually exclusive. Perhaps Exponent may be doing that additional work to deal with answering the question, but from what I have understood, all the work has been in preoperational litigation, but it is not a scientific analysis or dealing with a hypothesis of the problem.

So I would say that at this point they have not fulfilled—it is part of the, I guess, the solution in terms of trying to find the answer from what you have just described.

Mr. WAXMAN. Brake override is a vehicle software technology that many auto safety experts say would address the sudden unintended acceleration. With brake override if a driver applies both the accelerator and the brake at the same time, in most situations the car will disregard the accelerator and apply the brake.

I understand that NHTSA is currently evaluating the brake override technology and is considering updating its standards to require that technology in all cars.

Do you consider brake override to be a safety feature?

Mr. STRICKLAND. We believe at NHTSA that safety—that brake override has huge implications for safety. It is something that we believe has great promise. We are doing our research, and we do anticipate that it could have a great value to implementation in the fleet, but we have to do our work preliminarily.

But, yes, we consider it a safety feature.

Mr. WAXMAN. We have been told that in the course of discussing complaints of the sudden unintended acceleration with Toyota, NHTSA suggested to Toyota that Toyota retrofit some of its models with this brake override. Toyota advised the committee that it has decided to make brake override a standard feature in all of its cars for the 2011, model year forward. Toyota also told us it will upgrade the software in certain earlier models during service for other recalls.

Mr. Strickland, after 2011, when Toyota is done with its retrofitting, will there be Toyotas on the road that will not have the brake override?

Mr. STRICKLAND. I would imagine from your answer, sir, no, there will be some vehicles that will not have brake override.

Mr. WAXMAN. Do you support making brake override a mandatory feature for all cars in future model years?

Mr. STRICKLAND. As I said, we at NHTSA, we are beginning our research to justify that such a move, but in a preliminary fashion the one thing, the one goal we want to have is this. Any driver that presses the brake should be able to stop the car, and that—with that goal we believe it has great promise.

Mr. WAXMAN. Yes. Well, Toyota has reached a conclusion that they want to have this brake override. They think it is important. Is there any reason why if they have decided a brake override is important for the future cars and some of the existing cars that they wouldn't want to make brake override available in all cars that are compatible with this feature?

I will ask them that myself, but can you imagine any reason they would not want to do that?

Mr. STRICKLAND. From a consumer standpoint I would imagine that every driver of a Toyota that may have an issue regarding sudden unintended acceleration would like to have this feature on their car. Speaking as, you know, as a—just speaking as a consumer.

Toyota's decisionmaking in terms of how they implement it is an ongoing question, but to answer your question, sir, I believe that it would be a positive move for safety and for their own driving public.

Mr. WAXMAN. Well, I am going to look forward to hearing Mr. Lentz's explanation for why it won't be available in all Toyotas, because I don't see a reason not to make it all available—make it available in all the Toyotas, but we will get his response to that.

Mr. STRICKLAND. Yes, sir.

Mr. WAXMAN. Thank you, Mr. Chairman.

Mr. STUPAK. Thank you, Mr. Waxman.

Ms. Schakowsky, questions, please.

Ms. SCHAKOWSKY. Thank you. Thank you, Mr. Strickland.

Toyota relies on two primary justifications for its assertion that electronics plays no role in sudden unintended acceleration. We have already discussed one of the shortcomings, one of the justifications, the work, the engineering firm, Exponent, has done for Toyota and the problems with that.

The other justification Toyota relies on is the pre-market testing that Toyota's own engineers do before manufacturing vehicles for sale to the public. Our committee staff conducted a transcribed interview of two Toyota engineers from Japan and asked them multiple questions about the company's testing protocols. We learned that this pre-market testing has significant limitations. Toyota only conducts these—this test during the design phase of the vehicles.

As one of the Toyota engineers we interviewed told the committee, "Once mass production is initiated, then that means that the design is completed so we don't conduct anything additional."

So, Mr. Strickland, does this pre-market testing strike you as adequate to identify a cause of sudden unintended acceleration?

Mr. STRICKLAND. Well, Representative Schakowsky, there is sort of—there is two components here that NHTSA has concerns about. It is compliance. Before a vehicle is put into the stream of commerce, it has to be compliant with all the federal motor vehicle safety standards, and that is one set of issues that has to be taken care of.

The second part after the vehicle is on the road we worry about any defects ex post. Pre-market——

Ms. SCHAKOWSKY. I understand what you are saying, but now we are talking about before, but this is before mass production. Let me go on.

Mr. STRICKLAND. Yes.

Ms. SCHAKOWSKY. Toyota engineers also told us that Toyota does not perform these design phase tests on a large number of vehicles——

Mr. STRICKLAND. Yes.

Ms. SCHAKOWSKY [continuing]. And as a result, samples may not be representative enough to test for the risk of a rare event such as a sudden unintended acceleration. Some of the tests that Toyota relied on for its claim that the electronic system had undergone, "extensive testing," involved sample sizes of just one or two vehicles.

So, Mr. Strickland, does Toyota's approach strike you as adequate?

Mr. STRICKLAND. The approach—every manufacturer has a different approach. The only—what we are concerned about is what happens on the road.

Ms. SCHAKOWSKY. Well, I understand, but you said that there was a pre-market phase that you required. Is the test of one or two cars in the design phase in your view sufficient?

Mr. STRICKLAND. I would have to compare that with other manufacturers' testing protocols, and I don't have that——

Ms. SCHAKOWSKY. OK.

Mr. STRICKLAND [continuing]. At hand, but I will definitely get back to you on the record.

Ms. SCHAKOWSKY. OK. Furthermore, we—well, let us see. Sudden unintended acceleration occurs rarely and intermittently. Do Toyota's tests involving—oh, I asked you that. One or two vehicles. OK.

Furthermore, we learned that fail-safe mechanisms in Toyota vehicles are designed to detect single point, single event faults. In other words, faults that occur in isolation——

Mr. STRICKLAND. Yes.

Ms. SCHAKOWSKY [continuing]. And affect only one vehicle component. Toyota's testing of critical components of the electronic throttle control system reflects this focus in that they do not test for multiple event or multiple component faults. Numerous academics and independent experts told committee staff that rare multiple event faults could play a role in sudden unintended acceleration.

It seems to me that Toyota should try to identify all potential faults, not just the most frequent ones and develop tests to prevent them.

So, Mr. Strickland, do you agree that Toyota should take a comprehensive approach for—to test for potential causes of sudden unintended acceleration?

Mr. STRICKLAND. They should take a comprehensive approach. NHTSA's work with NASA is going to be a multiple fault causation study which takes into account possible multiple intervening events which could cause this. That is our study. That is our approach, and we would have the expectation for our findings that if we do find a vehicle defect, that that will be part of our response to Toyota if that is the case.

But NHTSA's approach is a multi-causal analysis in how we could replicate that fault.

Ms. SCHAKOWSKY. Based on the description of Toyota's pre-market testing that you have heard today, do you believe Toyota's pre-market testing provides a sufficient basis to conclude that there are no potential electronic causes of sudden unintended acceleration?

Mr. STRICKLAND. I don't think you can use a pre-market analysis as a determinative factor that there is no problem. I think you have to not only do pre-market testing, but you have to do long term, you know. I guess long-term studies of how your vehicle reacts, you know, in the real world as a number of manufacturers do.

So I don't think that NHTSA would say that a pre-market test validates a long-term answer of impossibility of there being a failure.

Ms. SCHAKOWSKY. Well, I am concerned about the pre-market testing itself, and it seems that Toyotas is not an adequate substitute for thorough testing needed to identify potential defects after manufacturing is complete and it is time for Toyota to stop making public assurances about the infallibility of their electronic systems when they don't have comprehensive testing to back it up.

Thank you, Mr. Chairman.

Mr. STUPAK. Thank you. Mr. Strickland, if I may, I have a couple questions.

Would you give Mr. Strickland the documents?

In response to some of the questions from Mr. Burgess and Chairman Waxman, a couple of questions. The first one is a letter dated February 22, 2010, sent to Secretary LaHood by myself and Mr. Waxman.

Mr. STRICKLAND. Yes.

Mr. STUPAK. And on page four, sub-part B asks that NHTSA reopen its investigation of PE, that is preliminary examination. Right, 04021?

Mr. STRICKLAND. Yes.

Mr. STUPAK. Which had 37 consumer complaints on sudden unintended accelerations in the Camry, 2002, 2003, Camry, Solara, and Lexus. We have yet to have a response. Are you going to reopen that investigation as requested?

Mr. STRICKLAND. The Universe of Test Vehicles subsumes these, all of these parts that you asked for, so in terms of a defect investigation as part of the NHTSA study that is ongoing, that we will have done in the—by the end of the summer.

So to answer, the short answer to your question is we are re-evaluating all this work in light of the NHTSA study in addition to—that is going to be included in the NAS study, but we will definitely get back to you on the record in direct response to Sub-part B.

Mr. STUPAK. OK. Well, if we are looking at that in response to Mr. Waxman's question, you said this brake override system is a huge safety issue.

Mr. STRICKLAND. Yes.

Mr. STUPAK. Why wouldn't NHTSA require Toyota then to have the brake override system in 2002, and 2003, Lexus ES300s, the Toyota Camry, and the Toyota Camry Solara from 2002, 2003, since we got at least 37 consumer complaints, and we have asked that it be reinvestigated?

Why wouldn't you require the brake override system be put in all vehicles or Toyota models of vehicles that have this sudden unintended acceleration that we have unexplained answers for?

Mr. STRICKLAND. It is still an ongoing investigation, Mr. Stupak. If we make a finding that it is a vehicle defect based upon that, then yes, we would, as part of the mandatory recall of those vehicles, we would ask for a remedy and that—and brake override could be a mandated part of that remedy because it is an investigation that is ongoing, which is inclusive. And the key to the NASA study we are not in a position to make that demand at this time.

Mr. STUPAK. If Toyota is putting it in some of the vehicles now and it will be in all the vehicles in 2011——

Mr. STRICKLAND. Yes.

Mr. STUPAK [continuing]. Then by putting it in certain vehicles now, is that admission then that you have a defect in those models and that is why you got to put in this brake override?

Mr. STRICKLAND. That isn't an admission. That is a decision that Toyota made independently for whatever reason, and you can have—ask Mr. Lentz those questions. But the—from NHTSA's perspective we can only force a mandatory recall if we believe that there is a defect that we can prove in court and we haven't been able to do that yet, but the fact that Toyota feels that they need to install this in some vehicles may be indicative of what they feel is to be a proper solution until they can come to their own answers.

Mr. STUPAK. All right. I guess I will save those questions for Mr. Lentz.

Let me ask you the other document I put before you. It is dated 5/2/2007. It is a memorandum from Scott Yon, and this is on the Smith vehicle that Mr. Burgess has asked about. In the last paragraph, first line it says, "Discoloration, rust, and surface damage to brake, rotors visible through all four wheel apertures." If you go on, next page, second paragraph, lower part of that paragraph it indicates, "the brake components exhibit wear and damage inconsistent with normal operation and inconsistent with the indicated vehicle mileage."

Then they have a number of photographs which show the damage indicates excessive brake temperatures is consistent with the brakes being applied vigorously over an extended period while the vehicle is moving at speed.

So the Smith vehicle, while maybe every time you turn the key you don't find the sudden unintended acceleration, obviously there was some damage there that was outside the normal wear and tear on a vehicle of this age. Is that correct?

Mr. STRICKLAND. Yes, sir. That is correct.

Mr. STUPAK. OK, and you have never found any vehicles that has been considered to have SUA, sudden unintended acceleration? You haven't been able to turn the keys. You said you had 20 models, and you haven't found this sudden unintended acceleration?

Mr. STRICKLAND. We have not had an event where we turned on the—where the engineer turned on the car, was able to replicate the fault specifically because of something outside of the parameters of a floor mat entrapment issue.

Mr. STUPAK. And we don't know when that occurs? That is why we give it this name, sudden unintended acceleration?

Mr. STRICKLAND. There is—yes. Absolutely. We basically have to categorize all of those events. There could be multiple causes for that, and that is the reason why we are having our long-term investigation for the National Academy of Sciences and having NASA specifically look at Toyota's electronic throttle control system for the study that we are accomplishing and will finish at the end of summer.

Mr. STUPAK. OK. My time is up. Mr. Burgess for questions.

Mr. BURGESS. Thank you, Mr. Chairman.

On the—Mr. Strickland, on the order of the brake override that now is receiving so much attention, you mentioned I think that installing it, the brake override, in Toyotas would be a positive move. Was that—correctly state your feelings?

Mr. STRICKLAND. Yes, sir. I think it would be a very positive move.

Mr. BURGESS. What other manufacturers have installed a brake override system on their cars?

Mr. STRICKLAND. There are several manufacturers that have brake override systems.

Mr. BURGESS. Are there some that don't?

Mr. STRICKLAND. There are some that don't.

Mr. BURGESS. Well, why is that not a requirement if you think it would be a good move for Toyota? Would it be a good move for other manufacturers?

Mr. STRICKLAND. We believe that brake override has a tremendous amount of promise, which is the reason why we are undertaking our preliminary research for possible rulemaking.

In terms of dealing with this issue, I guess, across the rest of the fleet, that is going to be part of a study and part of the—one of the answers will be possible long-term solutions, either from the National Academy of Sciences, which may include——

Mr. BURGESS. Rough numbers, what percentage of the fleet has the brake override right now?

Mr. STRICKLAND. That I am not sure. I would have to get back to on the record for that.

Mr. BURGESS. OK, but why isn't it more widely used? What are the barriers to the implementation?

Mr. STRICKLAND. There is—well, there is different systems in terms of how the brake and the accelerator work in terms of their

software configuration, the mechanical linkages. I am sure every manufacturer has different strategies in manufacturing construction which may lead to different decisions.

Mr. BURGESS. I don't want to over-simplify, but if you are thinking about rulemaking, then presumably you are looking at cars with electronic throttle control, would have a requirement for a brake override system so that if the brake is applied, the throttle—the default is for the throttle to stop action.

Mr. STRICKLAND. Yes, sir. We are absolutely looking at.

Mr. BURGESS. And so if that is good for Toyota, then it is good for X percent of the fleet that does not have the brake override system.

Mr. STRICKLAND. The goal for all regulations promulgated by NHTSA is for the safety of the entire fleet, not one manufacturer.

Mr. BURGESS. When we had the other hearing, and I don't have the information in front of me today, but it was a list rated, a numerical list of complaints received by the—your agency——

Mr. STRICKLAND. Yes.

Mr. BURGESS [continuing]. About cars, and Toyota showed up on the list, but they were like, I don't remember, 16, 17, 18 on the list. That means there were 16 other big car manufacturers where the cars had more complaints than Toyota and yet here we are involved in a series of hearings over Toyota.

Have you looked at the cars and the complaints that scored higher than Toyota or worse then Toyota, if you will, on that list, and are we actively pursuing the complaints that came into NHTSA for those vehicles as well?

Mr. STRICKLAND. NHTSA looks at all trends across all manufacturers. In terms of how the focus on Toyota, there was clearly an anomaly in acceleration events during the period that we are talking about, which is the reason why NHTSA has opened, you know, up until this point we had, I believe we opened eight investigations into this issue prior to the Santee crash. So we have not taken a look at—we have treated Toyota as we would treat any manufacturer.

Yes, there are other manufacturers with similar complaints, more complaints. We look at them just as vigorously as we do Toyota. It is just that in terms of the actual profile and in terms of trend analysis, Toyota in this area did have a higher tendency towards the later years of the Camry run after 2002.

Mr. BURGESS. And was that all related to models that has the electronic throttle control?

Mr. STRICKLAND. Yes, sir.

Mr. BURGESS. Let me ask you this. Let us talk about NASA for just a minute before I run out of time, and you referred to the research plan. Has—have you submitted a research plan to—for NASA's work?

Mr. STRICKLAND. That is—we are—we will be meeting with NASA next week. It required a huge amount of work to get the Toyota source code. There is lots of proprietary issues we had to overcome. There has been a tremendous amount of documents that NASA had to receive in addition to our automotive experts working with NASA.

So our hope is to have a test plan done fairly soon and hopefully we will be submitting, once we get that finalized, we will submit it to the Volpe Center for peer review. But we have not finished our plan yet.

Mr. BURGESS. So you will submit this analysis also for evaluation by this committee when you have it in hand?

Mr. STRICKLAND. Absolutely.

Mr. BURGESS. The time limit on the NASA review is for it to be completed by the end of August.

Mr. STRICKLAND. That is our hope.

Mr. BURGESS. And we don't have a plan yet, but we are going to get one. Is that correct?

Mr. STRICKLAND. Yes. You will get that.

Mr. BURGESS. So what if we get to the end of August and we haven't gotten there? What happens then?

Mr. STRICKLAND. Well, we have a timeline and a goal to make sure that we have results, but, you know, Mr. Burgess, the primary objective is to make sure that we get it right. So if it requires—there is some issues that may require it take us more time, we will update the committee about those issues as they arise, but our hope is to be done by the end of the summer.

Mr. BURGESS. Have you got enough funding to do what you need to do, because we, after all, have not done a budget this year. We are not going to do any appropriations until late in the year. Are you going to be able to pay for the things that you need to do to get this information?

Mr. STRICKLAND. We are, at the time we are properly resourced right now. If there is any resource issues that confront us in our work, we will definitely come back to the Congress and inform them.

Mr. BURGESS. Let the record show that NHTSA is awash in cash and needs no more money. I think that is what he just said.

Mr. STRICKLAND. I wouldn't say that, Mr. Burgess, but thank you for the implication.

Mr. STUPAK. Thank you, Mr. Burgess.

Ms. Christensen, any questions?

Mr. Braley, any further follow-up questions? Mr. Braley.

Mr. BRALEY. Yes. Administrator Strickland, one of the things I am curious about is the work that your agency is doing looking at other types of analysis that are being done by manufacturers in other parts of the world. Looking into the problem of evaluating electronic throttle control systems, are you aware of any of the work that is being done by the European manufacturers in terms of education and training to analyze potential problems with those systems?

Mr. STRICKLAND. Mr. Braley, I am not, but I am certain that my staff is. I am more than happy to have them come and speak to you and your staff and get back to you on the record on any questions regarding the differences on approaches between the European Union or the Japanese or any other manufacturer.

Mr. BRALEY. Be happy to do that and would also encourage your staff as part of its work on the investigation of those specific problems, to look at what is happening with those other manufacturers, what lessons they have learned and what their safety record is on

the issue of sudden unintended acceleration after those programs have been implemented.

Mr. STRICKLAND. Absolutely.

Mr. BRALEY. One of the other questions I wanted to ask you about is throughout this process, Toyota has represented to the committee that it retained Exponent to conduct an independent investigation of the underlying causes related to these problems with sudden unintended acceleration, and you have been here when we have talked about that.

Mr. STRICKLAND. Yes, sir.

Mr. BRALEY. And they have made similar representations to you.

Mr. STRICKLAND. That is correct.

Mr. BRALEY. Now, the company that they have retained to do that analysis, Exponent, do you know much about them and what they do?

Mr. STRICKLAND. I am fairly familiar with the company and its prior name and the issues that it has worked on over the years.

Mr. BRALEY. Its prior name being Failure Analysis Associates.

Mr. STRICKLAND. That is correct.

Mr. BRALEY. Are you aware of any instance where Failure Analysis Associates or Exponent has been retained to do an independent analysis on behalf of a consumer who was injured in a defective automobile?

Mr. STRICKLAND. My recollection of Exponent or Failure Analysis probably goes back to 1993. So that is the figure that I have knowledge of. I am not aware of them doing work for an injured consumer or a victim of the product.

Mr. BRALEY. All right. Thank you. Those are all the questions I have.

Mr. STUPAK. This concludes the questions for this witness. Administrator, thank you.

For the record I would like to enter into the record the two documents I presented to the Administrator on questions of February 22, 2010, letter from Chairman Waxman and myself to Secretary LaHood and also the memorandum dated May 2, 2007, concerning the Smith vehicle that we asked questions of.

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

Mr. STUPAK. So without objection they will be entered in the record.

Thank you, and Mr. Strickland, thank you for being here.

Mr. STRICKLAND. Thank you, Mr. Chairman.

Mr. STUPAK. Mr. Lentz, thanks for being here. You are on our second panel. We have James E. Lentz, who is the President and chief operating officer of Toyota Motor Sales in U.S.A. Incorporated.

As you know it is the policy of the subcommittee to take all testimony under oath. Please be advised that you have the right under the rules of the House to be advised by counsel during your testimony. Do you wish to be represented by counsel?

Mr. LENTZ. Yes. Ted Hester is behind me.

Mr. STUPAK. OK. Mr. Hester is here then, and you may consult with him during any time. If he testifies, we will place him under oath at the appropriate time.

Mr. LENTZ. Thank you.

Mr. STUPAK. So I would ask you to please rise, raise your right hand to take the oath. Do you swear or affirm the testimony you are about to give to be the truth, the whole truth, nothing but the truth in the matter pending before this committee?

Mr. LENTZ. I do.

Mr. STUPAK. Let the record reflect our witness is under—replied in the affirmative, and he is now under oath. Mr. Lentz, if you would like to begin with an opening statement, 5 minutes. If you have a longer statement, we will be happy to submit it for the record.

Mr. LENTZ. Thank you.

TESTIMONY OF JAMES E. LENTZ, PRESIDENT AND CHIEF OPERATING OFFICER, TOYOTA MOTOR SALES, U.S.A., INC.

Mr. LENTZ. Thank you, Chairman Stupak, Ranking Member Burgess, members of the subcommittee. Thank you for inviting me here today. My name is Jim Lentz. I am the President and Chief Operating Officer of Toyota Motor Sales U.S.A.

I am honored to return here to represent the 30,000 Americans who work for Toyota and the many thousands more from our dealerships and suppliers that bring great dedication and spirit to their jobs each and every day.

Three months ago I told this committee that Toyota is committed to strengthening our focus on safety and quality assurance and communicating effectively with our customers and regulators. In subsequent hearings four of my senior colleagues from the U.S. and Japan, including our President, Akio Toyoda also pledged to improve Toyota's response on safety issues.

Today I would like to update the committee on substantial progress we have made in honoring those commitments. We are taking major steps to become a more responsive, safety-focused organization. Listening closely to our customers, responding more quickly to their concerns, and those of our regulators and taking concrete actions to ensure that we are among the industry leaders in safety.

Mr. Toyoda has made improving quality assurance his top priority, and our entire company is mobilized to ensure that Toyota vehicles are safe and reliable for our customers, not only when they are first sold and leased but as they are on the road for many years to come.

Under Mr. Toyoda's personal leadership we have undertaken a top to bottom review of our quality assurance process in all aspects of our global operations. Importantly, Toyota has appointed a new chief quality officer for North American, a U.S. executive with more than 3 decades of manufacturing expertise to act as the voice of the customer in this region.

North America now has a greater say on recalls and other safety-related issues that affect vehicles sold here in the United States. In fact, the chief quality officer has a direct line to Mr. Toyoda when it comes to ensuring our customers' safety.

These changes are having a real impact as reflected in the speed and decisiveness of our response last month when Consumer Reports identified a potential software issue with the vehicle stability control in the 2010 Lexus GX460.

In addition, our SMART evaluation process has significantly improved the speed of our response to the customer reports of unintended acceleration. SMART stands for Swift Market Analysis Response Team, and at its core are 200 highly-trained engineers and field technicians who can be deployed anywhere in the U.S. to investigate customer reports of unintended acceleration onsite.

Under this new evaluation process the company has completed more than 600 onsite vehicle inspections. In our dealership technicians have completed an addition 1,400 inspections. These examinations are giving us a better understanding about the reasons for unintended acceleration complaints.

Significantly, none of these investigations have found that our electronic control system with intelligence, or ETCSI, was the cause. We are now making an extraordinary effort to service our recalled vehicles and equip all of our new cars and trucks with even more advanced safety technologies, including our star safety system, brake override, and improved event data recorders or EDRs, that will read both pre- and post-crash data.

Our dealers have completed nearly 3.5 million recall remedies. That is more than 70 percent of the sticky pedal modifications and will continue to reach out to the affected owners to make sure that they bring their vehicles to their dealer's attention. We are grateful to our customers, for the way that they are standing by Toyota.

Consistent with our pledge to Congress, we now have 150 EDR read-out units in North America and have delivered 10 EDR readers so that they can conduct their own data retrieval from Toyota vehicles during their investigations.

Additionally, Toyota is well on its way to being the first full-line manufacturer to feature brake override technology as standard equipment on all the vehicles sold in the United States. Brake override will be available across our entire product lineup by the end of 2010. We are also taking the extraordinary step of retrofitting brake override on seven existing models involved in the recalls as an additional measure of confidence for our customers.

Toyota remains confident that our ETCSI system is not the cause of unintended acceleration. Toyota and Lexus vehicles are inherently designed so that real world, uncommanded acceleration of the vehicle cannot occur. We test our vehicles extensively to make sure that the fail safes and redundancies work.

Nonetheless, we are making a major scientific effort to further validate the safety of our vehicles by opening up our technology to an unprecedented level of independent review by respected safety, quality, and engineering experts. The engineering and scientific consulting firm, Exponent, has already completed more than 11,000 hours of testing and the analysis of the ETCSI system, and its comprehensive evaluation is ongoing.

I have been advised by Secretary Slater that the Quality Advisory Panel he chairs will invite a rigorous peer review of that process as part of its assessment of exponent findings, and it will be one of the topics of discussion when the panel meets with Mr. Toyoda next week in Japan.

As Mr. Toyoda told Secretary LaHood, we are pleased to cooperate fully with NHTSA and through NHTSA with the engineers from NASA and their independent evaluation of our ETCSI system.

We also cooperate with the National Academy of Sciences on their evaluation of Toyota and Lexus vehicles as they study the industry-wide issue of automotive safety.

Members of the committee, at Toyota we are committed to doing more than just correcting mistakes from the past. We are learning from them, and we are making major steps to avoid them in the future.

I would like to quote the words of Mike Getz, Toyota team member for 22 years in Georgetown, Kentucky, plant. In One Team on All Levels, a book which is—means what it is to work at our plant in Kentucky, and it is written by the team members of the Georgetown plant, and Mike writes, "Toyota makes mistakes, but we are expected to take ownership to find out why and ensure that we learn from them and prevent reoccurrence." And we don't just say that. We actually do that. That has been the Toyota way for 70 years.

For the future, by acting swiftly on safety issues whenever they arise, we are determined to set a new standard for quality customer care for vehicles on the road. Our goal is to lead the way for our industry.

Thank you very much, and I am happy to answer any of your questions.

[The prepared statement of Mr. Lentz follows:]

WRITTEN TESTIMONY OF JAMES LENTZ

PRESIDENT AND CHIEF OPERATING OFFICER

TOYOTA MOTOR SALES, U.S.A., INC.

COMMITTEE ON ENERGY & COMMERCE,

SUBCOMMITTEE ON OVERSIGHT & INVESTIGATIONS

MAY 20, 2010

Chairman Stupak, Ranking Member Burgess, members of the Subcommittee, thank you for inviting me here today. My name is Jim Lentz, and I am the President and Chief Operating Officer of Toyota Motor Sales, USA.

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Three months ago, I told this Committee that Toyota is committed to strengthening our focus on safety and quality assurance and communicating effectively with our customers and regulators. In subsequent hearings, four of my senior colleagues from the U.S. and Japan – including our President Akio Toyoda – also pledged to improve Toyota's responsiveness on safety issues.

Today, I would like to update the Committee on the substantial progress we have made in honoring those commitments. We are taking major steps to become a more responsive, safety-focused organization – listening more closely to our customers, responding more quickly to their concerns and those of our regulators, and taking concrete actions to ensure that we are among the industry's leaders in safety.

Quality Assurance is Top Priority

Mr. Toyoda has made improving quality assurance his top priority, and our entire company has mobilized to ensure that Toyota vehicles are safe and reliable for our customers, not only when they are first sold or leased, but also when they are on the road.

Under Mr. Toyoda's personal leadership, we have established a Special Committee for Global Quality, which is undertaking a top-to-bottom review of our quality assurance processes in all aspects of our global operations including design, manufacturing and after-market support.

Importantly, Toyota has appointed a new Chief Quality Officer for North America – a U.S. executive with more than three decades of manufacturing expertise – to act as the "voice of the customer" in this region. North America now has a greater say on recalls and other safety-related issues that affect vehicles sold here in the United States. In fact, our Chief Quality

Officer, Mr. Steve St. Angelo, has a direct line to Mr. Toyoda when it comes to ensuring our customers' safety.

These changes are having a real impact, as reflected in the speed and decisiveness of our response last month when *Consumer Reports* identified a potential software issue with the vehicle stability control system in the 2010 Lexus GX 460. We immediately suspended sales and within a week we had replicated the test, developed a software fix, communicated our findings to NHTSA and initiated a voluntary recall.

Aggressively Investigating UA Reports

Our new SMART evaluation process has significantly increased the speed of our response to customer reports of unintended acceleration. SMART stands for "Swift Market Analysis Response Team." At its core are 200 highly trained engineers and field technicians who can be deployed anywhere in the U.S. to investigate customer reports of unintended acceleration on-site.

Under this new evaluation process, the company has completed more than 600 on-site vehicle inspections and our dealership technicians have completed an additional 1,400 inspections. We have submitted 701 field technical reports to this Committee, including on-site SMART team evaluations. These examinations are giving us a better understanding about the reasons for unintended acceleration complaints. Significantly, none of these investigations have found that our Electronic Throttle Control System with intelligence, or ETCS-i, was the cause.

As a result of these evaluations, we now understand that we need to improve our communication with customers about the features, characteristics and normal functions of our vehicles. Issues that have prompted unintended acceleration claims and concerns have included:

- Vehicles that have not yet received the floor mat entrapment or sticking accelerator pedal remedy;
- Cases requiring an explanation of vehicle characteristics where an increase in engine speed is normal, such as higher engine idle speed after a cold start, a slight increase in engine RPM when the air conditioning compressor cycles on, or a slight surge when the vehicle accelerates to the set speed once the cruise control is engaged;
- Concerns or questions about slight differences in the driving experience following a driveability programming update while the adaptive memory adjusts to the wear of certain components and their current operating characteristics;
- The presence of double or triple-stacked floor mats;
- Dissatisfaction with the feel of the accelerator pedal after the reinforcement bar remedy was fitted to address the potential for sticking pedals (in which case a new pedal was installed); and
- In rare cases, vehicles that were not correctly remedied during a recall.

In cases where no problem with the vehicle was found, Toyota will monitor any complaints of the vehicle identification number (VIN) closely so that any future report can be investigated with the benefit of the cumulative knowledge of the previous information related to that VIN.

Equipping Vehicles with Advanced Safety Features

We are also making extraordinary efforts to service our recalled vehicles and equip all of our new cars and trucks with even more advanced safety technologies, including our Star Safety System, brake override and improved event data recorders, or EDRs, that read both pre- and post crash data.

Our dealers have already completed nearly 3.5 million recall remedies. These modifications include:

- 1.67 million to address the potential for sticking accelerator pedals
- 1.62 million to address the potential for floor mat pedal entrapment
- 118,000 program updates to the anti-lock brake systems (ABS) in certain 2010 Prius and Lexus models.

To date, more than 70 percent of the sticking pedal modifications have been completed on the 2.3 million vehicles that have been recalled, for an average of approximately 120,000 remedies performed per week. Approximately 30 percent of the floor mat entrapment modifications have been completed on the 5.4 million vehicles that were recalled for this issue, and approximately 80 percent of the ABS program updates have been performed on the 147,500 Prius and Lexus models that were recalled.

We continue to reach out to all affected owners to make sure they bring their vehicles to dealers for attention. We are grateful to our dealers for their outstanding commitment to quality service and grateful to our customers for the way they are standing by Toyota.

Consistent with our pledge to Congress, we now have 150 EDR readout units in North America and the U.S. territories and are actively training our internal and field staff on their use. We have delivered 10 EDR readers to NHTSA so that it can conduct its own data retrieval from Toyota vehicles during investigations.

By the end of 2010, all new Toyota and Lexus vehicles will have EDRs that can record both pre- and post-crash data. Additionally, Toyota has developed new policies and procedures for responding to direct customer requests for EDR readouts and data hand-off to help ensure a smoother, more informed process for all parties involved.

The company plans to provide additional information to customers on how to make these requests, as well as on the process itself, on the Toyota website in the near future. Toyota is also actively developing plans to transition to a commercially available EDR readout device and software package, and remains on track to have this in place by September 2011, ahead of the 2012 federal deadline for automakers regarding EDR data capture and data accessibility.

And, Toyota is well on the way to being the first full line manufacturer to feature brake override technology as standard equipment on all our new models sold in the United States. Brake override will be available across our entire product line by the end of 2010. Our hybrids already have a braking system that achieves a similar result and we have taken the extraordinary step of retrofitting brake override on seven existing models involved in the recalls – some 3.3 million vehicles – as an additional measure of confidence for our customers.

Validating Safety of ETCS-i

Toyota remains confident that our electronic throttle control system is not a cause of unintended acceleration. Toyota and Lexus vehicles are inherently designed so that a real world uncommanded acceleration of the vehicle cannot occur. This is achieved by a redundant system design with dual computers and sensors as well as by robust fail safe architecture. We test our vehicles extensively to make sure that the fail safes and redundancies work. Indeed, Toyota's ETCS-i has been subjected to comprehensive testing over more than a decade without a single unintended acceleration event. Toyota has never discovered or been provided with any evidence that the ETCS-i can cause unintended acceleration in a real world scenario.

Nonetheless, we are making a major scientific effort to further validate the safety of our vehicles by opening up our technology to an unprecedented level of independent review by respected safety, quality and engineering experts, including our new North America Quality Advisory Panel headed by former Secretary of Transportation Rodney Slater. The Panel will work closely with Toyota's leadership team and the new North American Quality Task Force, headed by our Chief Quality Officer for North America, and will have unfettered access to information concerning Toyota's quality and safety procedures. Its members are:

- **Rodney E. Slater**, former U.S. Secretary of Transportation;
- **Norman Augustine**, former chairman and CEO, Lockheed Martin Corporation;
- **Patricia Goldman**, former Vice-Chairman, National Transportation Safety Board;
- **Mary Good**, Dean of Engineering and Information Technology, University of Arkansas at Little Rock, and former President, American Association for the Advancement of Science (AAAS);
- **Roger Martin**, Dean, Rotman School of Management;
- **Brian O'Neill**, former President, Insurance Institute for Highway Safety; and
- **Sheila Widnall**, Professor, MIT and former Secretary of the U.S. Air Force.

The engineering and scientific consulting firm Exponent has already completed more than 11,000 hours of testing and analysis of our ETCS-i and its comprehensive evaluation is ongoing. Engineers from Exponent have on several occasions in the past assisted the federal government itself in a wide variety of complex and high profile engineering evaluations.

Earlier this week, Steve St. Angelo, our Chief Quality Officer for North America, assumed the role of the senior Toyota executive responsible for the Exponent relationship. Mr. St. Angelo stated in his letter to Subbaiah Malladi, Exponent's Chief Technical Officer: "As is already the case, Toyota will not limit the scope or budget of Exponent's evaluation. Toyota remains committed to the proposition that Exponent be allowed to conduct its own independent analysis of the ETCS-i. I will do my best to make sure you continue to have unfettered access to the information and resources that Exponent's scientists and engineers require from the company."

Mr. St. Angelo further reaffirmed in his letter that Toyota intends to publish Exponent's findings irrespective of Exponent's conclusions. In addition, I have been advised by Secretary Slater that the Quality Advisory Panel he chairs will be initiating a rigorous peer review process as part of its assessment of Exponent's findings.

A copy of Mr. St. Angelo's letter to Exponent is attached. Also attached is a DRAFT Interim Status of Exponent's Investigation of Toyota ETCS-i Vehicle Hardware and Software.

As Mr. Toyoda has told Secretary LaHood, we are pleased to cooperate fully with NHTSA and through NHTSA with engineers from NASA in their independent evaluations of our ETCS-i. We will also cooperate with the National Academy of Sciences on its evaluation of Toyota and Lexus vehicles and on its industry-wide study of automotive safety.

Setting New Standard for Quality Customer Care

Members of the Committee; at Toyota, we are committed to doing more than just correcting the mistakes of the past. We are learning from them and taking major steps to avoid them in the future.

I would like to quote the words of Mike Goetz, a Toyota team member of 22 years standing at our Georgetown, Kentucky plant. In "One Team On All Levels," a book about what it means to work for Toyota written by Georgetown team members, Mike writes: "Toyota makes mistakes but we are expected to…take ownership to find out 'why' and ensure we learn from them and prevent reoccurrence. We don't just say that, we do it."

That has been the Toyota Way for 70 years. For the future, by acting swiftly on safety issues whenever they arise, we are determined to set a new standard for quality customer care for vehicles on the road. Our goal is to lead the way for our industry.

Thank you and I am happy to answer your questions.

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Mr. STUPAK. Thank you, Mr. Lentz, and thank you, again, for being here.

Let me start, I asked Mr. Strickland, but let me ask you this question. Last time you were here in February you testified that the mats and the sticky pedal accounted for about 16 percent of the sudden unintended accelerations, and that is 84 percent of them we cannot—we have no answer for.

Are we any closer to finding out what about those other 84 percent of the sudden unintended acceleration? What is the cause of it?

Mr. LENTZ. Well, I think part of it is it depends on the database that you are looking at. In the case of NHTSA's database it is lumped together as speed control. So it includes not only events of sudden unintended acceleration, but it includes any other type of surge or hesitation event. So when we spoke last, I am confident of three things.

I am confident that the sticky pedal is being repaired. We are already almost 70 percent repaired.

Mr. STUPAK. Correct.

Mr. LENTZ. I am confident that we are going to be under control on the mats. I am confident that ETCSI——

Mr. STUPAK. But even if you do 100 percent mats, 100 percent sticky pedal, we still have 84 percent of—and these are numbers we used last time. Here is our 2,262 sudden acceleration reports since 1999. Eight-hundred and 15 crashes, 341 injuries, 19 deaths in the United States.

So the 84 percent was from the 2262. So that means 84 percent of them, even if you did 100 percent mats, even if you did 100 percent sticky pedal, we still have 84 percent we don't have an answer for. You tell us you have 11,000 hours that Exponent has done. What did they conclude? What did those tests show? We have no reports. They won't give us any reports.

So what did the 11,000 hours of testing, what was it about? What was done? Was it on the computer, was it on the microprocessors? We don't know because Exponent won't provide us any information.

Mr. LENTZ. Well, a couple different questions in there.

Mr. STUPAK. A lot of questions there.

Mr. LENTZ. There are a lot of questions in there. First off, in terms of surges and hesitations, the possibility of pedal misapplication, even though we are going to do these two mechanical fixes, those are still going to exist, and they still can be reported to NHTSA as speed control because it is such a broad category. That is part of that 84 percent number that is in that number.

In terms of Exponent and the scope of their work, they provided the committee back, I believe, around the time that I testified.

Mr. STUPAK. An interim report. That is all we received.

Mr. LENTZ. From very, very preliminary——

Mr. STUPAK. Right.

Mr. LENTZ [continuing]. On a small portion of what they are testing. I believe yesterday they provided a second report to you all with more information, but they are testing not only vehicle electronics, they are testing EMI, they are testing everything that could possibly create unintended acceleration.

Mr. STUPAK. I guess I would agree with you, but you come and say we are doing everything, and Exponent has this open-ended ability to do what needs to be done. You testified there is 11,000 hours, and what Exponent says and all we have this February. It says, "It is important to know that at this stage of our work we neither claimed to have looked at all issues, nor have opined on the cause of the incidents of unintended acceleration that have been reported."

We agree that further work needs to be performed before we reach such opinions and further work is underway, and when we asked, we received no reports. They just said, well, work is underway. Is all this in some engineers' or scientists' head? No one writes down what they are doing for 11,000 hours? How would you even pay them? I mean, we have their payment schedule, $485 for this person or that person. How in the heck do you know if you are getting anything for your money?

Mr. LENTZ. Well, you know, I am convinced that in the end when we see the final report, and it is going to be made public, it would be peer reviewed, and Secretary Slater is also going to review what is taking place. I am confident that with what they are doing we will see a very independent report, number one.

Number two——

Mr. STUPAK. When are we going to see a final report?

Mr. LENTZ. I don't have an exact date. We are——

Mr. STUPAK. We are holding NASA to the end of the August. Can we have Exponent's final report by the end of the August?

Mr. LENTZ. I don't think that they have committed to me a given date, but I will tell you this. That in the case of Exponent you are right. I have listened to the comments in the past, that they were reporting through product liability attorneys. That changed this week. Steve St. Angelo, as we continued to expand the quality officer's job in North America, Steve St. Angelo, Exponent is now reporting to Steve St. Angelo, and all of their work will report through Steve St. Angelo. And I know we have a conference call next week as we do every week with the Quality Task Force, and I am sure Steve, being from—he is from the manufacturing, engineering side, he is going to demand that we have a work process with Exponent going forward, and as soon as we have that, you will have that.

Mr. STUPAK. OK. Your counsel has sort of indicated that the Exponent contract did not change at all, so is this going to be a new change that is bringing about, or is it going to be reduced to writing about who they are going to report to and how they are going to get this to your safety——

Mr. LENTZ. A letter has already gone to Zabia at Exponent from Steve St. Angelo.

Mr. STUPAK. When you get a chance, would you get it to the committee if you don't mind? Can we just see the document?

Mr. LENTZ. It was submitted with our written statement.

Mr. STUPAK. OK. All right. Now, let me ask you this one last question. My time is up. Is there going to be a recall tomorrow on these Lexus LS vehicles?

Mr. LENTZ. I don't know for certain the timing.

Mr. STUPAK. OK, but there is going to be a recall on some of these vehicles——

Mr. LENTZ. Yes.

Mr. STUPAK [continuing]. On a steering problem. Correct?

Mr. LENTZ. Yes, and it is because of the experience in Japan. The steering component that creates this is standard in Japan on all LS's.

Mr. STUPAK. Right, and then that is a computer-driven steering issue?

Mr. LENTZ. It is computer driven.

Mr. STUPAK. Have you had any complaints here in this country about the steering on these?

Mr. LENTZ. We have not had any complaints but now that Japan has had the issue, we are combing through our files to see if there is anything. It is on roughly 50 percent of the LS's in the United States. It is not standard on all vehicles in the U.S.——

Mr. STUPAK. OK.

Mr. LENTZ [continuing]. Like it is in Japan.

Mr. STUPAK. Well, 3,800 vehicles here in the United States I think it is.

Mr. LENTZ. Yes. About—I think 24, 2,500 that have been sold, and about 1,400 that are either in dealer stock, core stock, or on their way to us that could be impacted.

Mr. STUPAK. OK. Mr. Burgess for questions, please.

Mr. BURGESS. Thank you, Mr. Chairman. Mr. Lentz, thank you for being with us again this afternoon.

Chairman Stupak's opening statement made a lot of reference to polling. He didn't have any questions on it. I am not sure that I do, but would you care to respond to some of the things that—some of the statements that were made in the opening statement by the chairman of the subcommittee?

Mr. LENTZ. Yes. We have the polling company of—I don't recall their name right now, but they have done polls for us for about 3 years.

Mr. BURGESS. Benenson Strategy Group?

Mr. LENTZ. That is—yes. I am sorry. They have done polls for us for about the last 3 years. They have probably done at least 2 dozen polls in the past. The poll that is in question was done soon after my testimony. It was done soon after the ABC exposé ran about unintended acceleration, and there were questions within that that asked questions about Dr. Gilbert and about Shawn Kane and about ABC. There were a lot of other questions of the things that we are measuring as well, but, yes, we did do research polling about the work done by Dr. Gilbert.

Mr. BURGESS. Can you, if it is not proprietary, can you give us an idea of the sample size?

Mr. LENTZ. I believe it was around 1,000. I may not be exact. We will find it was 980 or 990.

Mr. BURGESS. But, of course, you would have no reason to publicly state the fact that you are doing a poll. Typically a company would not publicize that it is polling because that might influence the results of the poll. Is that correct?

Mr. LENTZ. Correct.

Mr. BURGESS. Now, have you—you did this in response to the ABC news piece. Have—is it unusual for your company to do polling-related—do other issues of the day that may relate to your particular industry?

Mr. LENTZ. Well, I think it is, but I think the ABC news piece was very unusual as well. I mean, it was a clear attack on the reputation of the company, and it really caste out about electronic throttle control systems. So we felt it was very, very important to our customers, to our dealers.

Mr. BURGESS. But, sir, if you didn't make it public, then it was obviously in your best interest not to go public with that information. Well, who did?

Mr. LENTZ. Made which public?

Mr. BURGESS. The poll on the ABC news hit piece, ABC news piece.

Mr. LENTZ. Yes. I don't know the answer to that.

Mr. BURGESS. But you did not. Your company did not.

Mr. LENTZ. Not to my knowledge. No.

Mr. BURGESS. So it was leaked to a usually-reliable source and——

Mr. LENTZ. It could possibly be. I don't know. I mean, at the time that we were using that—doing that polling, we didn't know how much damage that ABC report had done to our reputation, and we were contemplating whether or not we would have to do newspaper advertising to try to explain our side, and quite frankly, the results of the polling indicated that the consumers really didn't know much about what they had said, and quite frankly, didn't care a lot about it.

So we didn't end up doing anything about it.

Mr. BURGESS. Now, you have had your engineering firm, Exponent, to review and try to replicate the conditions that Professor Gilbert outlined——

Mr. LENTZ. Yes.

Mr. BURGESS [continuing]. To us here on the committee. Was that the decision made before you commissioned the poll from the Benenson Strategy Group?

Mr. LENTZ. That actually took place the evening before my testimony. So when we found out that ABC was running that, Exponent worked that night to see how many other vehicles they could replicate. So that would have been before the polling.

Mr. BURGESS. Did you run any ads based on the information you received, retrieved from the polling data?

Mr. LENTZ. Not that I know of. I mean, there have—some of our advertising in terms of in America has been run based on some of that polling information, but to my understanding with regard to Gilbert and Kane I don't believe we have run anything on that.

Mr. BURGESS. On the—we have had some talk about the brake overrides and fixes for the sudden unintended acceleration. Last fall your company announced that it will be installing brake override on certain models. Will this cover all models of Toyotas that have been the subject of sudden unintended acceleration? Going back and retroactively installing the brake override system?

Mr. LENTZ. Yes. Not on every single vehicle. The first cut to decide where we would put those were really on all vehicles that had

the pushbutton start, stop. So Camry is an example. Some models do. We put it across the entire Camry line. Same with IS, same with ES, same with, I believe, Avalon.

We then took a second cut and took a look at based on NHTSA's data of high incidence of sudden acceleration, what other vehicles might we add to that for additional consumer confidence.

Mr. BURGESS. Well, why wouldn't you just add it to all models for consumer confidence?

Mr. LENTZ. Well, it is an additional eight million vehicles. In some cases some of those models when you look at the NHTSA database, actually has a much less-than-average incident rate of sudden acceleration. It is not the same across all vehicles on the Toyota or Lexus side.

And I think part of it is the tremendous amount of engineering resource and time that it takes to do that.

Mr. BURGESS. You are trying to rebuild consumer confidence after a very damaging——

Mr. LENTZ. Yes.

Mr. BURGESS [continuing]. Series of events the past eight months that does seem like it would make sense if that is the way to repair consumer confidence, add the feature and then none of the rest of us have to worry.

Will that brake override system prevent every and all instance and type of sudden unintended acceleration?

Mr. LENTZ. It only works if you step on the brake.

Mr. BURGESS. OK. Let me ask you this if I could. You have been very indulgent. I just want to say at least in my part of the world that your dealerships have done an excellent job opening early, staying late. I have had multiple, anecdotal experiences from people, my own experience with your dealership in Lewisville. I think they have done very well by your company in what was a pretty tough time. They stepped up, met the challenge, and have taken it—have met it head on. So a lot of it is to your dealers in the North Texas area. They are doing a great job.

Mr. LENTZ. Thank you. They are tremendous partners of ours, and they understand the value of taking care of customers. So thank you.

Mr. STUPAK. Mr. Chairman, Chairman Waxman for questions, please.

Mr. WAXMAN. Thank you, Mr. Chairman and Mr. Lentz. I am still confused, because as I hear what you are saying, Exponent is continuing to do research for you, but they are not going to do it for the trial lawyers, they are going to do it for one of your corporate executives. This will be——

Mr. LENTZ. I don't think they are necessarily exclusive. I think as it has evolved——

Mr. WAXMAN. OK. So they are still doing research?

Mr. LENTZ. Yes.

Mr. WAXMAN. And you have told them to do a comprehensive evaluation, spare no budget?

Mr. LENTZ. Yes.

Mr. WAXMAN. Do everything that needs to be done.

Mr. LENTZ. Yes.

Mr. WAXMAN. Have they completed their research?

Mr. LENTZ. No.

Mr. WAXMAN. OK. Now, when you were here last, they had done an interim report. That is all we had at that point. That interim report didn't tell us much, yet you and—not as much you but others from Toyota assured the American people that it is not the—that the whole electronic system that it could possibly be the cause of sudden acceleration.

How could you be so sure about that?

Mr. LENTZ. The only way that we can be sure, and I am more confident today than I was in the past, is that we know that we do a lot of work and a lot of research before we put the vehicles on the road, and I know I will have additional questions on that.

As well, today as these SMART teams are going out and investigating these—we have had 600——

Mr. WAXMAN. But we were told that you were relying on Exponent's research and their conclusions, but you weren't relying on their conclusions because they hadn't finished their report. They still haven't finished that report.

Mr. LENTZ. No. They still haven't finished, but they are——

Mr. WAXMAN. So you are relying on what you were told about the work that was being done in Japan before the products were put into mass production.

Mr. LENTZ. Yes, and let me——

Mr. WAXMAN. And I raised some concerns about that in my opening statement, but let us go back to explain it because it has been held out to us that Exponent has put this issue to rest. That is why Exponent's doing this work.

And I just can't understand why you are so absolutely certain, you say you are even more certain now than you were then.

But still you haven't had an Exponent's report. You are going to have a peer review. Why are you bothering to do all that if you are absolutely convinced based on the other work that you are doing?

Mr. LENTZ. Because we want to ensure that the public and our customers, that they have the confidence, that this has been reviewed independently, scientifically, peer reviewed, even having Secretary Slater review the process.

Mr. WAXMAN. Hold on a second. Former Secretary Slater.

Mr. LENTZ. Former. Yes. I am sorry.

Mr. WAXMAN. Well, we heard from the head of NHTSA, Mr. Strickland, and he doesn't feel that he can rely on what he knows of Exponent's work. Exponent seems to be working for the lawyers. He says it is not mutually exclusive for doing work for your corporations, but everything that they have shown us by way of documents gives us no sense that they have come to any conclusions. In fact, we have no sense they are even looking at this issue because they haven't even had it on the list of things that they were evaluating.

If Exponent is doing the job you describe in your testimony, providing a comprehensive assessment, it presumably would be undertaking a complicated, multi-disciplinary investigation involving numerous rounds of testing and analysis, but Dr. Sori told our staff that at any given time that ten to 25 people could be working on the Toyota project, and there is no written communication among these people. There is nothing by way of any written notes.

Science is what we need to have evaluated, so I just raise that issue. I still am not satisfied because you are now relying on something other than Exponent to give you that certainty.

I want to ask you a different question before my time is up, and that is this question of the brake override. Why are you doing a brake override? What is the purpose of it?

Mr. LENTZ. It is to help with added consumer confidence in our products.

Mr. WAXMAN. Is it for safety?

Mr. LENTZ. I think for some people it could be safety. I can't speak for all the consumers to say that 100 percent of the consumers will see that as safety.

Mr. WAXMAN. Well, not how they see it. I don't care how they see it. Is it going to make the car safer?

Mr. LENTZ. There are other redundancies within a car today that will make that car stop. Today, even at full throttle, full brake pressure will stop a car.

Mr. WAXMAN. And you don't think there is any safety need for it?

Mr. LENTZ. I believe there is. Otherwise we wouldn't be putting it on future models, but it does add consumer confidence. I can't tell you every consumer——

Mr. WAXMAN. No. It seems to me you are saying something different here. You are saying it will make people feel better. That is consumer confidence. But are you willing to say that it is going to make the cars safer?

Mr. LENTZ. I can't say 100 percent that it necessarily makes cars safer. It is—they are different. It is just like cars——

Mr. WAXMAN. Let me—they said it costs around $50 to do this, but you are not doing it for all your cars. You are not going back. You are retrofitting some of the cars but not others. Why have you made that decision? Don't you feel that those who are driving less-expensive Toyotas would sense that they have a brake override that is going to protect them?

Mr. LENTZ. It is not a question of what people pay for their cars. We started, as I mentioned before, we started with the four vehicles that had pushbutton start.

Mr. WAXMAN. Are you going to get to the other vehicles?

Mr. LENTZ. We then went to an additional three models that were high on the overall NHTSA complaint list.

Mr. WAXMAN. Are you going to get to all the other vehicles?

Mr. LENTZ. We are not—we will not get to all the other vehicles going back.

Mr. WAXMAN. Do you have a brake override in your car?

Mr. LENTZ. I drive a hybrid that has the equivalent of it.

Mr. WAXMAN. And why shouldn't——

Mr. LENTZ. My son does not in his, and I don't feel——

Mr. WAXMAN. What?

Mr. LENTZ. My son does not have brake override in his vehicle, and I do not feel that he is not safe.

Mr. WAXMAN. OK, but what if I as a Toyota owner wanted to spend $50 and get that in my car?

Mr. LENTZ. If it hasn't been developed, it is a totally new software. If it is not developed, it is not developed.

Mr. WAXMAN. Well, it is developed enough that you are putting it in most of the Toyotas.

Mr. LENTZ. It is unique to each and every vehicle.

Mr. WAXMAN. But you are going to put it on future Toyotas.

Mr. LENTZ. Yes.

Mr. WAXMAN. Each and every vehicle for Toyota in the future.

Mr. LENTZ. Yes, but it is unique——

Mr. WAXMAN. And you are retrofitting it for some of them but not all of them.

Mr. LENTZ [continuing]. To each and every vehicle going backwards. The amount of time that it would take to be able to do it is just not——

Mr. WAXMAN. Mr. Lentz, with all due respect, what I hear you saying is you want people to feel good so you tell them Exponent has said that it is not the electronics. They should be assured, and I don't believe you can say that. That was the past testimony. You are saying people ought to feel good about the brake override, but you are not willing to say that that is really for safety.

I don't see that you are giving us assurances on safety. It seems to me you are working around attitudes. That attitude you want to develop is people should feel good about Toyota. I want people to feel good about their safety.

Mr. LENTZ. I understand, but understand, it is an extraordinary effort. I don't know of another manufacturer that has gone back to retrofit vehicles with any type of safety like this.

So even to do three million going back on these seven models, is an extraordinary effort for any manufacturer to do and——

Mr. WAXMAN. My time—I didn't want to interrupt you if you are finished.

Mr. LENTZ. No. That is fine. Thank you.

Mr. WAXMAN. My time has more than expired. Thank you, Mr. Chairman, for letting me go over, but as you can tell I am still not satisfied. Thank you.

Mr. STUPAK. Ms. Christensen for questions, please.

Mrs. CHRISTENSEN. Thank you, Mr. Chairman. Mr. Lentz, in the prior hearing it seemed and I sort of asked a question related to this before, all the major decisions are being made in Japan. Toyota, Japan, and there seems to be a disconnect between what was happening with Toyota-made cars in different parts of the world. No communication for example. What was happening in Europe with Toyota? You and Toyota U.S. for example.

How would having a special committee on global quality and a chief quality officer have made a difference if those offices existed back then?

Mr. LENTZ. The biggest difference is not only that we have a global quality officer, but we have an individual who is responsible for recalls now in the United States. The world has been divided up now into I believe it is six different regions. So Europe has a representative, China has a representative, the U.S. has a representative. They will share in all the information and all the data that is going on on a global basis.

So if there was——

Mrs. CHRISTENSEN. That didn't happen before?

Mr. LENTZ. That did not happen before. The decisions were made in Japan and communicated to us. Now that information will be visible to this individual, and this individual will work with one other person in Japan to make that decision whether or not that there is a recall or not. If he is not satisfied, Steve St. Angelo has the ability to go directly to Akio Toyoda and discuss the situation. So not only do we have input now, but we can go all the way to the President of the company if we are not satisfied with what the decision is.

So that is very, very different than before.

Mrs. CHRISTENSEN. And you have the North American Quality Advisory Panel. They are appointed and paid by Toyota?

Mr. LENTZ. Yes. Mr. Slater was initially suggested by Toyota, and he basically handpicked the rest of the representatives on that committee.

Mrs. CHRISTENSEN. So, I mean, other than relying on the high respect that we have for the stewardship and the integrity of Rodney Slater, who may not always be, I mean, for any number of reasons he could leave, how do we ensure that there is adequate independence in this advisory panel?

Mr. LENTZ. You know, I think you have to look at the results of what happens over the next few years. We are very confident that—and not only Mr. Slater but the additional members of his panel. I believe they have already spent time with our people. They have already spent time with Exponent, and they seem to be very, very independent, very upfront and are asking tremendous questions, and I think the yare going to add tremendous value to our overall organization.

Mrs. CHRISTENSEN. And my last question, the initiatives such as SMART, are they happening in the territories as well as in the states? We have a big Toyota market in the Virgin Islands.

Mr. LENTZ. Yes. I can't tell you specifically in the Virgin Islands. Our SMART team has not been requested to go, but after your comments today, I am going to make sure that Japan understands if they need technical expertise, we will give them that assistance. I know on the engineering side from the team aside, that they do cover the Caribbean. Our SMART team does not outside of Puerto Rico, which is under TMS control.

Mrs. CHRISTENSEN. OK. Well——

Mr. LENTZ. We will——

Mrs. CHRISTENSEN [continuing]. Puerto Rico covers the U.S. Virgin Islands.

Mr. LENTZ. OK.

Mrs. CHRISTENSEN. Thank you.

Mr. STUPAK. Mr. Braley for questions.

Mr. BRALEY. Thank you. Mr. Lentz, welcome back.

Mr. LENTZ. Thank you.

Mr. BRALEY. I want to explore in a little more detail Toyota's relationship with Exponent. When you appeared before the subcommittee on February 23 of 2010, you submitted a written statement. Do you remember that?

Mr. LENTZ. Yes.

Mr. BRALEY. And on page two of your written statement you said, "We asked Exponent in December, a world-class engineering

and scientific consulting firm, to conduct a comprehensive, independent analysis of our electronic throttle control system with an unlimited budget." Do you recall making that statement?

Mr. LENTZ. Yes, sir.

Mr. BRALEY. And at the conclusion of that hearing I requested a copy of any documents that would verify the nature of the relationship between Toyota and Exponent, and in response to that request we received from your attorneys, King & Spaulding, a copy of a document listed as attachment A, which we will put up on the screen and which you have in front of you, and this is an agreement dated December 7, 2009, between Joel Smith at Bowman & Brooke Law Firm in Columbia, South Carolina, with Exponent.

Would you agree with that?

Mr. LENTZ. Yes.

Mr. BRALEY. And under the term subject, it says Toyota class actions. Do you see that?

Mr. LENTZ. Yes.

Mr. BRALEY. You know what a class action is.

Mr. LENTZ. Yes, sir.

Mr. BRALEY. It is a group of claims against a manufacturer that have been accumulated for the purpose of pursuing relief. Did I state that correctly?

Mr. LENTZ. Yes.

Mr. BRALEY. And then in the first paragraph it says, "Dear Joel," and then it outlines the scope of services under the agreement. It says, "Our scope of services is anticipated to include engineering consulting services related to class actions filed against Toyota."

Do you see that?

Mr. LENTZ. Yes.

Mr. BRALEY. And you would agree that class actions filed against Toyota are separate and distinct from an independent analysis of what is causing this problem.

Mr. LENTZ. I understand that, but I can tell you that——

Mr. BRALEY. Well, let me just go on then to the rest of this letter. Down in paragraph three it says, and this is an agreement between Bowman & Brooke, a law firm in California, and Exponent. It says, "It is our understanding that Exponent's retention on this project is solely with your organization," and the organization that Exponent is referring to is the law firm of Bowman & Brooke. You would agree with that.

Mr. LENTZ. Yes.

Mr. BRALEY. And it says, all charges incurred by Exponent on this project, and that is the Toyota class action project, will be the responsibility of Bowman & Brooke, independent of other parties involved. Do you see that?

Mr. LENTZ. Yes.

Mr. BRALEY. So it is clear that when Exponent was first retained they entered into an agreement with a law firm in South Carolina, not with Toyota directly, and the subject of that agreement was to investigate class action claims against Toyota.

Mr. LENTZ. I understand.

Mr. BRALEY. Correct? And we heard from Administrator Strickland, he put this in perspective when he said there is preparation for litigation and there is scientific analysis consisting of a detailed

analysis of the cause of a problem and eliminating it. You would agree. There is a distinction.

Mr. LENTZ. I don't know that for certain.

Mr. BRALEY. Well, let us look at it, because we also received an attachment D, a summary of what Exponent had been paid by Toyota over the years, and it says that between 2000, and 2009, Toyota paid Exponent about $11 million for consulting services and during the period between 2004, and 2009, it was $9.1 million, and there is a statement here, "Exponent believes the result of the search provides a reasonable estimate of the gross revenues from Toyota," but they note that if that agreement does not specifically refer to Toyota by name, it may not show up in those revenues.

So it is clear that Toyota in that decade had paid a substantial amount of money to Exponent, and my question for you is how can you claim that Exponent was retained by Toyota to conduct an independent investigation when this agreement we have been provided with makes it clear that they were retained by your defense law firm, and it was for contested litigation which is in no way considered an independent analysis.

That is how the relationship began. But as this has evolved, well, as of this week, before you came here, you testified that they were reporting through product liability attorneys, and that changed this week.

Mr. LENTZ. Correct. Correct.

Mr. BRALEY. And then the other thing I want to point out is we also asked questions from Toyota and received responses, and I want those put up on the screen, question and request number 15, it says, "The overall amount that Exponent has billed for work-related to Toyota since exponent was retained by Bowman & Brooke on December 7, 2009, the answer the committee received was Exponent has billed $3,330,552.36.

So you indicated in your written statement today that Exponent has already completed more than 11,000 hours of testing and analysis. That means that at 11,000 hours that they are billing about 302 an hour for this, in the incredible amount of work that they have done on this project.

Mr. LENTZ. I don't know. I don't know what the specific contract is. All I can say I understand the perception that this is not a very transparent process.

Mr. BRALEY. But you also provided us in your written statement today with this letter to Mr. Sobi——

Mr. LENTZ. Yes.

Mr. BRALEY [continuing]. Who you have indicated will be communicating directly with Mr. St. Angelo——

Mr. LENTZ. Yes.

Mr. BRALEY [continuing]. And when Toyota's counsel talked to committee staff yesterday, they said that the letter to Exponent that you provided with your attachment does not change Exponent's contractual relationship with Bowman & Brooke.

Mr. LENTZ. Not yet.

Mr. BRALEY. Is it your understanding that it will?

Mr. LENTZ. I do not know that for a fact.

Mr. BRALEY. Will you commit to the committee today that if it does, you will provide us with any documents that change the con-

tractual relationship between Exponent and Bowman & Brooke or Toyota and any of its various entities related to the project that we have been talking about during these two hearings?

Mr. LENTZ. Absolutely.

Mr. BRALEY. I see my time has expired. I will yield back.

Mr. STUPAK. Thank you, Mr. Braley.

We wanted to go another round of questions, but we have got four votes on the floor plus a committee markup on the bill, on the NHTSA bill that takes place at 2:00, and the members can't be at two places, so we are going to have to cut it short.

Mr. Lentz, before I go, though, I did want to get into questions about the polling, but I can do that in writing, and I will follow these up, but last time you were here in February I asked you about—and a lot of discussion about the event data recorders.

Mr. LENTZ. Yes.

Mr. STUPAK. We received no information yet on anything from the event data recorder, other than you provided some, but I had asked, Mr. Rush has asked, and others had asked specifically about the November 27, 2009, accident involving the 2010, Camry in Auburn, New York. I asked about December 26, 2009, accident in South Lake, Texas, involving a 2008, Toyota Avalon. I asked about the Jeff Pepsky of Minnesota, 2007, Lexus ES350, about their black box recorder.

I also asked and questioned you on the February 20, 2010, Washington Post article on the Camrys in 2005. In fact, Camrys, three fatal accidents in the course of the 2005, Camry is not subject to any sudden unintended acceleration, even those three fatal accidents here did.

We were looking for the information on the black box recorders. I will follow it up in writing, but that and then other questions I have.

Mr. LENTZ. I apologize that we haven't submitted that to you. I can tell you that the black box recorders, we lived up to the commitment that we made that we will—we have 150 of the devices, the data retrieval devices in the marketplace. I can also tell you that——

Mr. STUPAK. Correct, but we want to know what they say.

Mr. LENTZ. Yes, but I can also tell you that they will be made commercially available by probably about September of 2011, to make it much more readily available for police across the United States.

Mr. STUPAK. And consumers, I hope.

Mr. LENTZ. Yes, and consumers will have access.

Mr. STUPAK. Because they will be part of the bill today.

Mr. LENTZ. To their data.

Mr. STUPAK. So—but we will follow those up.

Mr. Braley, quickly because we are going to run out of time.

Mr. BRALEY. Yes. Before you close this hearing I would just ask that the response from King & Spaulding that we received with all of the relevant attachments and the email that we had up on the screen dated Wednesday, May 19, with the answers to questions number 15 and 16, be included as part of——

Mr. STUPAK. I would have no problem as long as we had some redactions on some of the names. That would be the only thing I would have to insist upon. Other than that I have no objection.

Do you have any objection as long as you redact the names?

Mr. BRALEY. I just—I have a question for the Chairman why we would redact names that have been provided in response to an official request.

Mr. STUPAK. Because we have—that has been our policy in the past if they are not subject to—if the names of those individuals, those engineers by Exponent, their names don't need to be in the public record.

Mr. BRALEY. Then the only exception I would request then, Mr. Chairman, is there are people, Mr. Sobi is listed as the very first person in that answer. Since he has been the subject of the discussion at the hearing and there is no question based on the letter that he—that the——

Mr. STUPAK. Correct.

Mr. BRALEY [continuing]. Witness has provided that his name be left and not——

Mr. STUPAK. Correct. OK. Without objection. So be it included with redactions of the professional engineers who were not subject to or signed that letter.

[The information was unavailable at the time of printing.]

Mr. STUPAK. OK. That concludes all——

Mr. BURGESS. Mr. Chairman, just one observation since everyone else has gone over.

Mr. STUPAK. All right.

Mr. BURGESS. We are going to—well, you are going to a markup at Commerce, Trade and Consumer Protection. I am no longer on that subcommittee, but you are going to mark up legislation, and we haven't finished our work here that is supposed to inform the legislation that is being marked up this afternoon.

I mean, there are huge discrepancies and huge holes that need to be filled with—they need to get this done so——

Mr. STUPAK. The legislation we are marking up does not just include the subject of this hearing, Toyota.

Mr. BURGESS. Well, I would——

Mr. STUPAK. There are also others. There have also been hearings on the legislation that witnesses have testified. I know you are not on the subcommittee but reports come——

Mr. BURGESS. But do we—reclaiming my time, we do this time and time again.

Mr. STUPAK. You don't have any time.

Mr. BURGESS. We did it with clean water, we—now we are doing it with this bill this afternoon. It just seems like the committee should take things in a methodical way and not be doing these things in a haphazard arrangement that seems to be so prevalent right now in the committee.

Mr. STUPAK. We——

Mr. BURGESS. Thank you for your indulgence. I will yield back.

Mr. STUPAK. You will have a chance to voice those objections when it comes to the full committee, because as you know, when it goes for the subcommittee level, it must come to the full com-

mittee before we have a markup at full committee level. So you will have a chance to participate then.

Well, that concludes all questioning. I want to thank all of our witnesses for coming today and for your testimony. The committee rules provide members have 10 days to submit additional questions for the record.

I ask unanimous consent that the contents of the document binder be entered in the record provided, that the committee staff may redact any information as business proprietary, relates to privacy concerns or law enforcement sensitive.

Without objection, the documents will be entered into the record.

Before I close this hearing, let me acknowledge two key staff persons. Anne Tindall of the Democratic staff and Karen Christian of the Republican staff. Both these women are expecting a child very soon. We appreciate the work they put in on this hearing and previous hearings for this committee and our subcommittee. We wish them well in the coming days and weeks ahead as they transition from work exhaustion to childbirth exhaustion.

That will conclude our hearing. The meeting of this subcommittee is adjourned.

[Whereupon, at 1:45 p.m., the subcommittee was adjourned.]

[Material submitted for inclusion in the record follows:]

HENRY A. WAXMAN, CALIFORNIA
CHAIRMAN

JOE BARTON, TEXAS
RANKING MEMBER

ONE HUNDRED ELEVENTH CONGRESS

Congress of the United States
House of Representatives

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February 22, 2010

The Honorable Ray LaHood
Secretary
U.S. Department of Transportation
1200 New Jersey Avenue, SE, 9th Floor
Washington, DC 20590

Dear Secretary LaHood:

In response to the Committee's requests, the National Highway Traffic Safety Administration (NHTSA) has provided thousands of pages of internal agency documents. Committee staff also met with NHTSA officials on January 27 and February 18, 2010. We thank you for this cooperation.

Our preliminary review of the documents and the information learned from the meetings with NHTSA officials raises two significant concerns. First, NHTSA appears to lack the expertise needed to evaluate defects in vehicle electronic controls. In recent years, vehicles have made increasing use of sophisticated electronic controls. According to some accounts, autos now contain more computer code than some fighter jets, nearing 100 million lines of code. Yet, NHTSA officials told the Committee staff that the agency does not employ any electrical engineers or software engineers. As a result, NHTSA appears to lack the technical expertise necessary to analyze whether incidents of sudden unintended acceleration are caused by defects in the cars' electronic systems.

Second, NHTSA's response to complaints of sudden unintended acceleration in Toyota vehicles appears to have been seriously deficient. Since 2000, NHTSA has received 2,600 complaints of sudden unintended acceleration, as well as six defect petitions requesting investigations. Despite these warnings, NHTSA conducted only one cursory investigation in 2004 into the possibility that defects in electronic controls could be responsible for these incidents. This investigation was led by Scott Yon, who informed Toyota in an e-mail that he was "not very knowledgeable" about the electronic throttle control system used in Toyota vehicles. This investigation was marred by highly

questionable assumptions and was closed after the agency failed to identify a defect trend.

These concerns are explained in more detail below. We expect that members of the Subcommittee will ask you about these concerns during your testimony tomorrow, and we ask that you come prepared to address them.

I. NHTSA's Lack of Expertise

Computers have become central to the operation of cars in recent years. According to one report, modern vehicles contain between 30 and 100 microprocessor-controlled devices, known as electronic control units, and now have more lines of code than some military fighter jets.[1] These computers control the most essential operations of the vehicle, including acceleration, braking, and cruise control. As the agency responsible for ensuring that the vehicles on the road are safe, it is essential that the National Highway Traffic Safety Administration have ample expertise to test and analyze these electronic systems and to evaluate the sufficiency of tests and analyses the automakers perform.

It appears, however, that NHTSA lacks this expertise, hampering the ability of its Office of Defects Investigation (ODI) to examine possible electronic defects in vehicles. In the briefing on February 18, NHTSA officials told the Committee staff that the agency has no electrical engineers or software engineers on staff.

NHTSA officials maintained during this briefing that they have the authority to contract for such services as needed. But it appears that NHTSA has not done so. NHTSA has conducted only one investigation that examined whether electronic throttle controls could cause or contribute to sudden unintended acceleration in Toyota vehicles. This was a preliminary investigation that occurred in 2004. NHTSA staff told Committee staff that the agency did not seek contract assistance during this investigation.

The documents provided to the Committee indicate that this lack of expertise may have undermined the thoroughness of the 2004 investigation. During the investigation, Toyota held a technical meeting with NHTSA to provide information and demonstrations of the electronic throttle control system. In preparation for this meeting, Mr. Yon, NHTSA's principal investigator, wrote in an e-mail to Chris Santucci, a senior Toyota official and a former NHTSA employee, that Toyota could "supplement or disregard" some of the suggested agenda items proposed by NHTSA because "I'm not very knowledgeable on this system."[2]

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[1] *The Dozens of Computers That Make Modern Cars Go (and Stop)*, The New York Times (Feb. 5, 2010).

[2] Email from Scott Yon to Chris Santucci (May 12, 2004).

According to press accounts, NHTSA is now planning to "meet for the first time with outside safety experts, as well as manufacturers and suppliers, to review the potential that electronic defects are part of the problem."[3]

II. NHTSA's Response to Reports of Sudden Unintended Acceleration

NHTSA has been aware of reports of sudden unintended acceleration in Toyota vehicles for many years. Between January 2000 and January 2010, the agency received approximately 2,600 complaints that allege a form of sudden unintended acceleration of Toyota vehicles.[4] These complaints increased after the introduction of electronic throttle controls. In June 2004, NHTSA sent Toyota a chart that showed a 400% increase in the rate of complaints regarding "vehicle speed" upon introduction of electronic throttle control in Toyota Camrys.[5]

The documents provided to the Committee by NHTSA raise questions about whether NHTSA gave these reports the attention and thorough investigation they deserved.

A. The 2003 Defect Petition

In April 2003, NHTSA received the first of six defect petitions from consumers urging the agency to investigate sudden unintended acceleration in Toyota and Lexus vehicles. The petition was filed by Peter Boddaert, a Lexus owner, who asked NHTSA to conduct an analysis of 1997 through 2000 Model Year Lexus vehicles for a defect relating to "sudden, unexpected excessive acceleration."[6] He claimed to have experienced three such events and found 271 similar reports in the Office of Defects Investigation database of consumer complaints.

Relying on a restrictive definition of "Sudden Acceleration Incident" developed by the agency in 1989, NHTSA denied Mr. Boddaert's petition. The agency concluded:

> The information gathered does not indicate the Lexus vehicles are over-represented in the NHTSA database for consumer complaints concerning sudden acceleration and/or problems with vehicle speed control. Based on the foregoing analysis, there is no reasonable possibility that an order concerning the

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[3] *Toyota inquiries take a new turn; lawmakers, regulators want answers on electronic throttles*, Los Angeles Times (Feb. 3, 2010).

[4] Letter from David Strickland to Rep. Henry A. Waxman (Feb. 15, 2009). *See* Attachment 3.

[5] Email from Scott Yon to Chris Santucci (June 3, 2004).

[6] Letter from Peter Boddaert to National Highway Traffic Safety Administration (Apr. 25, 2003).

> notification and remedy of a safety related defect would be issued as a result of granting Mr. Boddaert's petition. Therefore, in view of the need to allocate and prioritize NHTSA's limited resources to best accomplish the agency's safety mission, the petition is denied.[7]

B. The 2004 Preliminary Evaluation

In 2004, NHTSA conducted its only investigation to date that examined "allegations that the electronic throttle control system fails to properly control engine speed" in Toyota vehicles. This Preliminary Evaluation examined the model year 2002 and 2003 Lexus ES300, Toyota Camry, and Toyota Camry Solara. A Defect Petition urging NHTSA to investigate sudden acceleration in 2002 and 2003 Lexus ES300 vehicles was deemed to be within the scope of the investigation and was folded into it.[8] The Preliminary Evaluation, known as PE04-021, was opened on March 3, 2004, citing 37 consumer complaints as the basis for the investigation.[9]

On March 23, 2004, in a memorandum to the file, NHTSA investigator Scott Yon limited the definition of the possible defect in a way that eliminated 27 of the original consumer complaints from the scope of the investigation. Mr. Yon's memo states:

> ODI has opened this investigation based on owner reports alleging that: A) an engine speed increase occurred without pressing on the accelerator pedal or, B) the engine speed failed to decrease when the accelerator pedal was no longer being depressed. In either event, ODI's position is that if such a failure were to occur the driver would be able to control or stop vehicle movement by pressing on the brake pedal.... Longer duration events involving uncontrollable acceleration where brake pedal application allegedly had no affect are not within the scope of this investigation.[10]

In a briefing with Committee staff on February 18, 2009, NHTSA staff explained that ODI limited the investigation to eliminate instances of pedal misapplication. NHTSA staff asserted that a combination of a throttle opening and a brake failure is consistent with pedal misapplication and that no single defect would lead to both of these failures occurring simultaneously. NHTSA staff further stated that in 2004, NHTSA had not seen the long duration highway events, like the Lexus crash in San Diego in August

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[7] Department of Transportation, National Highway Traffic Safety Administration, *Denial of Motor Vehicle Defect Petition, DP-03-003,* 68 Fed. Reg. 55076 (Sept. 22, 2003).

[8] NHTSA, *ODI Resume, DP04-003* (Mar. 5, 2004).

[9] NHTSA, *ODI Resume, PE04-021* (Mar. 3, 2004).

[10] Memorandum to File from Scott Yon, National Highway Traffic Safety Administration, *File for PE04-021, Toyota Throttle Control* (Mar. 3, 2004).

2009, and was focused only on shorter duration events in which the driver did not have time to apply the brake.[11]

The Committee's investigation raises questions about the validity of NHTSA's approach. Contrary to the contention of NHTSA staff, it appears that NHTSA was aware in 2004 of reports of incidents of sudden unintended acceleration of long duration. One of the complaints referenced in the March 3, 2004, document initiating the Preliminary Evaluation but removed from the scope of the investigation following the March 23, 2004, memorandum was from the owner of a 2003 Camry who wrote that he was driving on an interstate highway at about 60 mph when another car began to enter his lane just ahead of him:

> As I braked and swerved to the right, *the Camry suddenly and unexpectedly accelerated.* As a consequence, my swerve to the right was far more severe than anticipated or expected. The car continued to accelerate as I steered to the left and attempted to brake to correct the initial swerve to the right. I then steered back to the right, then left, then right, in an attempt to control the vehicle. All of that time I was also applying the brakes. In wrestling to gain control of the car, I crossed three lanes of traffic before the car finally slammed sideways into the concrete median. The engine was still running fast and the car was lurching forward. I looked down to make sure I was applying the brake. My foot was squarely on the brake pedal. I was only able to stop the car from moving forward by turning off the ignition.[12]

During the time that NHTSA performed this review, the agency received additional complaints regarding sudden unintended acceleration. One complaint in particular, number 10065362, involving a fatal crash in Evansville, Indiana, appears to contradict NHTSA's assumption that an unintended acceleration event could be controlled or stopped by "pressing on the brake pedal" because the decedent apparently attempted unsuccessfully to use the brakes. According to a complaint submitted to NHTSA on March 31, 2004: "when coming out of a parking lot, the accelerator [on the subject vehicle] stuck, causing the vehicle to accelerate out of control. Vehicle grazed another vehicle, went across a street, grazed a building, and drove straight into another building.... At the scene [the driver of the car] was conscious and claimed the car surged out of control. EMTs at the scene stated both feet were 'jammed' on the brake."[13]

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[11] Briefing by NHTSA staff to House Energy and Commerce Committee Staff (Feb. 18, 2010).

[12] National Highway Traffic Safety Administration, Office of Defects Investigation, *Consumer Complaint 10059571* (Apr. 15, 2003) (italics in original).

[13] National Highway Traffic Safety Administration, Office of Defects Investigation, *Consumer Complaint 10065362* (Mar. 31, 2003).

Documents provided to the Committee reveal that the investigators looking into Toyota sudden acceleration were aware of this crash. On April 5, 2004, Mr. Yon memorialized a conversation he had with another NHTSA employee in which the other employee "stopped by to give me a copy of 10065362, State Farm complaint that reports a fatality in a 2003 Camry. I explained investigation to him, what it was looking at."[14] Two weeks later, Mr. Yon memorialized a phone conversation with Chris Santucci at Toyota in which they "briefly discussed ... case 10065362."[15] The official files for the investigation do not mention this complaint. Moreover, the reported circumstances surrounding this fatal crash apparently did not impact NHTSA's position that the brakes can always stop or control sudden unintended acceleration.

Despite the fact that this investigation was focused on the possibility of a defect in the electronic throttle control system, Toyota's internal documents reflect the impression of Toyota officials that the NHTSA investigators – Scott Yon, Bob Young, and Jeff Quandt – were more interested in mechanical and human explanations for the incidents than electronic ones. In an internal Toyota memorandum describing a June 24, 2004, briefing and demonstration Toyota provided for NHTSA, Toyota officials noted the NHTSA investigators' belief that the failsafe modes for the electronic throttle system worked as intended The Toyota officials wrote:

> Mr. Young also drove the vehicle in such a way that he was able to apply both the accelerator and the brake pedal at the same time. He referred to this as "Dual Pedal Application." He expressed his opinion that the complaints that the agency has received were most likely dual pedal applications. He also stated that it was very difficult to achieve this dual pedal application condition because the Camry ... utilizes a wide spacing between the accelerator pedal and the brake pedal.
>
> After Mr. Yon completed his demonstration, Mr. Young took him and Mr. Quandt into the V6 Camry and, without TMA or TMC personnel present, demonstrated the dual pedal application while pulling into a parking spot. Later, Mr. Yon was noted as saying that this type of condition was more closely related to what consumers had told him had occurred to them.[16]

In another internal document that Toyota provided to the Committee, Chris Tinto, Toyota's Vice President for Regulatory Affairs and a former NHTSA staffer, described this same briefing, and suggested that NHTSA staffers seemed interested in gathering

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[14] Scott Yon, Discussion with Al Jiminez, PE04021-Toyota Throttle Control (Apr. 5, 2004).

[15] Scott Yon, Phone Call with Chris Santucci, PE04-021-Toyota Throttle Control (Apr. 22, 2004).

[16] Toyota Motor North America, Technical and Regulatory Affairs, *TMA-Report, Camry Defect Investigation(PE04-021): Meeting with NHTSA (June 24, 2004)* (undated document) (TOYEC_00041374).

information they could use to close the investigation. Following the technical briefing, Mr. Tinto e-mailed his colleagues with a summary of the day's events:

> NHTSA explained to the group that their database of complaints shows that 2002 and 2003 Camry vehicles have more complaints of surge and/or sudden acceleration than the 2000 and 2001 Camry's, and they need to understand why this is so, as it will help in their investigation (i.e it will help them close).[17]

In that same e-mail, Mr. Tinto noted that Toyota's goal was "ultimately closing this investigation within the next 4-6 weeks."[18] Toyota's goal proved to be attainable, as NHTSA closed the investigation on July 22, 2004, less than four weeks later.

NHTSA explained its decision to close the Preliminary Evaluation as follows: "A defect trend has not been identified at this time and further use of agency resources does not appear to be warranted."[19] The summary of the investigation cites the technical meeting with Toyota and the demonstration of the failsafe modes as evidence that the system will work and that any fault would be revealed in a diagnostic trouble code. The NHTSA records offer no indication that any NHTSA staff consulted with experts in electronic systems during this investigation or critically evaluated Toyota's claims about the operations of its electronic throttle controls.[20]

C. Actions Since the 2004 Preliminary Investigation

NHTSA has opened two Preliminary Evaluations of sudden unintended acceleration since 2004. Both focused on accelerator pedal interference and did not consider electronics or any other nonmechanical defects unrelated to the interference. The first, PE07-014, examined floor mat interference in model year 2007 Lexus vehicles. It led to the first voluntary recall of Lexus floor mats in March 2007. The second, PE08-014, involved a small number of model year 2004 Sienna vehicles in which the trim panel to the right of the accelerator pedal could become loose and trap the pedal. This investigation also led to a voluntary recall.

Since it completed its 2004 investigation, NHTSA has rejected four more defect petitions calling for investigations into sudden unintended acceleration in Toyota vehicles. In 2005, Jordan Ziprin, the owner of a 2002 Camry, filed a petition urging NHTSA to reopen its 2004 investigation. In its denial of his petition, NHTSA noted that while 168 of the complaints Mr. Ziprin compiled in his petition fit within the scope of the

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[17] E-mail from Christopher Tinto to Irv Miller et al. (June 28, 2004).

[18] *Id.*

[19] National Highway Traffic Safety Administration, *ODI Resume, PE04-021* (July 22, 2004).

[20] NHTSA, *ODI Resume, PE04-021* (July 22, 2004).

2004 inquiry, the agency found no evidence suggesting "that a vehicle based cause may exist."[21] In 2006, William B. Jeffers, the owner of a 2006 Camry, filed a defect petition urging NHTSA to examine "engine surging" in Camry vehicles.[22] That petition was denied because "ODI has not identified a vehicle-based defect that would have produced the alleged engine surge in the Petitioner's vehicle, nor was it able to witness such an event when road testing the Petitioner's vehicle."[23] ODI similarly rejected petitions in 2008 from William Kronholm, the owner of a 2006 Tacoma, and in 2009 from Jeffrey Pepski, the owner of a 2007 Lexus ES320.[24]

In August 2007, Chris Santucci, the Toyota official who had previously worked at NHTSA, e-mailed his colleagues updating them on a visit he made to NHTSA to discuss potential floormat interference. Mr. Santucci wrote that while he walked around the building during his visit:

> I ran into a lot of different investigators and ODI staff and when asked why I was there, when I told them for the ES350 floormats, they either laughed or rolled their eyes in disbelief.[25]

IV. Conclusion

Sudden unintended acceleration in vehicles is a serious and highly dangerous event. Our preliminary assessment is that NHTSA has lacked the expertise needed to address this serious defect and has conducted only cursory and ineffective investigations. We hope that tomorrow's hearing gives you the opportunity to address these concerns and provides the Committee with additional information about NHTSA's response to incidents of sudden unintended acceleration over the past decade.

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[21] Department of Transportation, National Highway Traffic Safety Administration, *Denial of Motor Vehicle Defect Petition, DP-05-002,* 71 Fed. Reg. 164 (Jan. 3, 2006).

[22] Letter from William B. Jeffers to NHTSA (July 3, 2006).

[23] Department of Transportation, National Highway Traffic Safety Administration, *Denial of Motor Vehicle Defect Petition, DP-06-003,* 72 Fed. Reg. 10815 (Mar. 9, 2007).

[24] Department of Transportation, National Highway Traffic Safety Administration, *Denial of Motor Vehicle Defect Petition, DP-08-001,* 73 Fed. Reg. 51551 (Sept. 3, 2008); Department of Transportation, National Highway Traffic Safety Administration, *Denial of Motor Vehicle Defect Petition, DP-09-001,* 74 Fed. Reg. 56686 (Nov. 2, 2009).

[25] E-mail from Chris Santucci to Christopher Tinto et al. (Aug. 23, 2007) (TOYEC62783 to 62787).

Sincerely,

Henry A. Waxman
Chairman

Bart Stupak
Chairman
Subcommittee on Oversight and Investigations

cc: The Honorable Joe Barton
Ranking Member
Committee on Energy and Commerce

cc: The Honorable Greg Walden
Ranking Member
Subcommittee on Oversight and Investigations

○