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RESPONSE BY TOYOTA AND NHTSA TO INCIDENTS OF SUDDEN UNINTENDED ACCELERATION

TUESDAY, FEBRUARY 23, 2010

House of Representatives,

Subcommittee on Oversight

and Investigations,

Committee on Energy and Commerce,

Washington, D.C.

The subcommittee met, pursuant to call, at 11:02 a.m., in Room 2123, Rayburn House Office Building, Hon. Bart Stupak [chairman of the subcommittee] presiding.

Present: Representatives Stupak, Braley, Markey, DeGette, Doyle, Schakowsky, Ross, Christensen, Welch, Green, Sutton, Dingell (ex officio), Waxman (ex officio); Sullivan, Burgess, Blackburn, Gingrey, and Barton (ex officio).

Also Present: Representatives Gonzalez, Rush, Engel, Gordon, McNerney, Shimkus, Buyer, Whitfield, Terry, and Pitts.

Staff Present: Phil Barnett, Staff Director, Kristin Amerling, Chief Counsel; Bruce Wolpe, Senior Advisor; Timothy Robinson, Counsel; Anna Laitin, Professional Staff Member; Dave Leviss, Chief Oversight Counsel; Anne Tindall, Counsel; Scott Schloegel, Investigator; Ali Neubauer, Special Assistant; Derrick Franklin, Detailee; Karen Lightfoot, Communications Director, Senior Policy Advisor; Elizabeth Letter, Special Assistant; Lindsay Vidal, Special Assistant; Earley Green, Chief Clerk; Jen Berenholz, Deputy Clerk; Mitchell Smiley, Special Assistant; Matt Eisenberg, Staff Assistant; Alan Slobodin, Chief Minority Counsel; Kevin Kohl, Minority Professional Staff; and Garrett Golding, Minority Legislative Analyst.

Mr. Stupak. This meeting will come to order.

Today, we have a hearing titled Response by Toyota and NHTSA to Incidents of Sudden Unintended Acceleration.

We have a number of Members who are present for this hearing who are not members of the subcommittee but are members of the full committee. We welcome them, and I note that they will be allowed to submit written statements for the record but will not be able to deliver opening statements.

In addition, after all subcommittee members complete their questioning, full committee members will be allowed to ask questions. Members who are not on the subcommittee or the full committee are welcome to observe, but they will not be permitted to give a verbal opening statement or ask questions due to time constraints.

I ask unanimous consent that Congressman Burgess be allowed to serve as ranking member for today's hearing.

Without objection, the request is accepted.

The chairman, ranking member, and chairman emeritus will now be recognized for a 5-minute opening statement. Other members of the subcommittee will be recognized for 3-minute opening statements. And Mr. Rush, the chairman of the CPTC Subcommittee, will also be allowed to give an opening statement along with the ranking member, if they so desire. So we will begin with the opening statements. I will begin.

Ten years ago, this committee investigated the Firestone tire recalls which caused the deaths of dozens of people and expressed vulnerabilities in the government's oversight and recall authority. In response, Congress quickly passed the THREAT Act which was intended to provide enhanced authority for the National Highway Traffic Safety Administration to gather and analyze data from automobile manufacturers and provide an early warning system for catastrophic defects. Now, a decade later, we face a serious auto safety problem that calls into question whether the THREAT Act is achieving the purposes we intended.

Today's hearing will examine whether Toyota Motor Corporation and NHTSA acted in a timely fashion to address countless complaints of sudden unintended acceleration in Toyota vehicles. Sudden unintended acceleration describes a broad range of events in which a vehicle accelerates rapidly and a driver is unable to immediately slow down or stop the vehicle.

Over the past several months, Toyota Motor Corporation has issued two major recalls for defects associated with accelerator problems in eight popular models. The first recall, announced in October of 2009, addressed floor mats that can jam against the gas pedal, causing it to become trapped in a full throttle position. Toyota eventually opened this floor mat recall to 4.26 million vehicles, and just last month Toyota announced another recall of gas pedals that can stick or return slowly.

Toyota's leadership has been ambiguous about whether these

two recalls fully account for and address the problem of sudden unintended acceleration. Thousands of Toyota owners whose cars were not subject to either recall have reported to the company that their vehicles suddenly surged or accelerated to high speeds. A staff analysis of documents Toyota provided to the committee shows that roughly 70 percent of the sudden unintended acceleration events recorded in Toyota's own customer call database involved vehicles that are not covered by the a floor mat or sticky pedal recalls. The fixes Toyota has advertised for this problem do not provide much assurance to these drivers.

Our investigation has shown that Toyota has repeatedly dismissed the possibility of electronic failures could be responsible for incidents of sudden unintended acceleration. At the same time, Toyota provided software upgrades to certain vehicles to ensure that in instances where the gas and brakes were both depressed the brakes will override the gas. It seems like this software upgrade provides important safety protection, but we are left to ask, what will Toyota do for owners of its cars that cannot receive the safety upgrade?

Equally troubling is that officials at NHTSA appear to have bought into Toyota's explanation of these events. In closing investigations and in briefings of committee staff, NHTSA has repeated Toyota 's insistence that sudden unintended acceleration is caused by human error or limited mechanical problems, rather than problems in the electronic system. NHTSA made this

determination without having electrical or software engineers review the problem.

One of our witnesses today will tell us how a NHTSA investigator sent to inspect her vehicle, "seemed to arrive with a preconceived idea to sell to us that it was a floor mat problem," end of quote. This begs the question of whether NHTSA is too cozy with the industry they oversee or whether they are simply stuck in a mechanical mind-set, rather than evolving to keep up with the new generation of electronics and computer-run components.

In an attempt to quell concerns that sudden unintended acceleration occurs, Toyota attorneys commissioned a study titled, Testing and Analysis of Toyota and Lexus Vehicles and Components for Concerns Related to Unintended Acceleration by a company called Exponent. Toyota has presented this preliminary report to prove that the electronic system cannot cause sudden unintended acceleration.

However, this committee requested an independent expert assessment of the Exponent study; and these experts identified numerous shortcomings, including the review did not follow sound scientific method; major categories of testing such as electromagnetic interference and radio frequency interference were not addressed; only one of the seven vehicles used in the study was on the recall list; and the study did not examine a single vehicle that had experienced sudden unintended acceleration.

It is clear that the flawed Exponent study is nowhere near

adequate for a valid scientific review.

Toyota owes it to its customers, the American people, and government regulators to complete a comprehensive and scientifically sound review of their electronic system.

One individual who has taken a close look at Toyota's electronic gas pedals is Dr. David Gilbert at Southern Illinois University in Carbondale, Illinois. Dr. Gilbert will release his interim report showing how he was able to short-circuit the electronic gas pedal and mimic an unintended acceleration incident without triggering any diagnostic trouble codes in the vehicle's computer. Dr. Gilbert's report is the first study of this kind, and we are fortunate to have him and Mr. Sean Kane here to explain it.

In summary, what we have found is quite troubling. Toyota all but ignored pleas from consumers to examine sudden unintended acceleration events. They boast in a briefing of saving Toyota $100 million by negotiating a limited recall. They claim that they first became aware of sticking pedals in late October of 2009 when, in fact, they had received numerous complaints many months and years earlier. They misled the American public by saying that they and other independent sources have thoroughly analyzed the electronic system and eliminated electronics as a possible cause of sudden unintended acceleration when, in fact, the only such review was a flawed study conducted by a company retained by Toyota's lawyers.

Toyota and NHTSA, for that matter, have a lot of explaining to do to the American people, to Toyota owners and dealers. I look forward to an informational and productive hearing.

I next yield to the gentleman, Mr. Barton from Texas, for an opening statement.

Mr. Barton. Thank you, Chairman Stupak.

This is a little housekeeping before I give the opening statement.

As you know, the ranking member on our side on this subcommittee is Congressman Greg Walden. He has stepped off the committee so that we can put Parker Griffith of Alabama on the committee. Therefore, for today's hearing, we officially don't have a ranking member. I have asked Congressman Burgess if he would do that today. But to give the opening statement, it will be myself.

Later this week, Chairman Waxman -- I think -- has indicated that he will have a regular business committee meeting in which we will formally replace Mr. Walden. So that is why I am here.

Mr. Stupak. But for today's hearing, Mr. Burgess will be ranking?

Mr. Barton. Yes, sir, as soon as I give this opening statement.

Mr. Chairman, I am going to put my opening statement in the record in its entirety, so I am going to speak extemporaneously.

When the Republicans were in the majority, we held similar

hearings on Ford and Firestone tires. So I felt, as the ranking member of the full committee when Mr. Waxman and you approached me about these hearings, that it was only fair that the Republicans support this investigation. The American people do have a right to know, Mr. Chairman, and this subcommittee has always -- regardless of which party controlled the Congress and regardless of which member of this committee chaired this subcommittee -- has got a great record of getting the facts on the table. And I will say on the record, Mr. Chairman, that you are one of the best at getting the facts on the record.

Having said that, we do want to have an open mind on what the problem is.

I was stunned to learn yesterday that -- you know, it shows how long it has been since I have worked on a car. But I was under the impression that the steering mechanism and the fuel acceleration mechanism was like it was years ago, that it was mechanically linked. It is not. It is all electronic now. When you push that gas pedal, engineers actually have gone out of their way to create the feel of when it was linked -- to show how old I am -- to the carburetor, but it is really an electronic signal. There is no mechanical linkage. They actually create a spring-loaded system under the gas pedal to make it feel like, when you push down on the pedal, there is a linkage that is going into the engine, that is going up to the fuel injection system, the carburetor and making it work. It is all electronic.

The recall that Toyota was undertaking and the actual changes, the modifications, what they are doing is they are going in and shaving part of the gas pedal off at the bottom, and then they are putting a metal washer insert behind the pedal so that it feels a little differently. They have exhaustively looked at the computer programs and electronics to see if there is some computer malfunction. So far, they can't find it.

Now, maybe there is. And like the study you have indicated, Mr. Chairman, maybe there is something in their program that is wrong.

But I was under the assumption, as an industrial engineer, that it was still a mechanical system and there was something wrong with their design or something wrong with their linkage system or something wrong with their connection. Well, that is all electronic.

And what we need to do, Mr. Chairman -- I don't believe that we should -- and I am not saying that you are attempting to do this -- that we should go on a witch hunt. We should actually try to find out in the true and best sense of protecting the American people that, if there is a problem, what it is. If there is a problem, what Toyota is going to do about it. And if we do that, the American people will be well served.

What we don't want to do, in my opinion, Mr. Chairman, is just assume automatically that Toyota has done something wrong and is trying to cover it up. Now maybe they have. If that comes out

in these documents and in the testimony, I hope the Congress will come down on Toyota very forcefully. But if they haven't, you know, the people that I talk to have worked in the automotive industry for 30 years or more, and they have got absolutely no interest in covering up a problem that kills people, that hurts people, that endangers people's lives. But it appears to be that, unless there is some electronic problem, it is possible that it could just be too many people putting too many floor mats in their cars.

And I know that sounds silly, and it would seem incredulous to stipulate that that might be the problem. But, based on the observation of the 16 million vehicles, I believe, that Toyota has investigated or have records on, they have had a handful, maybe a dozen, that have had some problems. So we need to find the facts, and I know, Mr. Chairman, you and Mr. Waxman are great at finding the facts, and myself and the Republicans on the committee are going to help you.

So, with that, I would yield back.

[The prepared statement of Mr. Barton follows:]

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Mr. Stupak. Thank you, Mr. Barton. It has been a cooperative effort. I look forward to continuing to work with you on this matter.

A statement from the chairman of the full committee, Mr. Waxman, sir.

The Chairman. Chairman Stupak, I want to thank you for holding today's hearing on reports of sudden unintended acceleration in Toyota vehicles.

I am a great admirer of Toyota. Toyota makes good cars. I have driven one pleasurably and safely for years, and the company has been a strong corporate citizen. The Prius is a breakthrough vehicle that is making a crucial contribution to our environment and energy security. Perhaps that is why I am so disappointed in the company's response to reports of Toyota vehicles racing out of control too often with fatal consequences.

Over the last decade, cars have become moving computers. They have dozens of microprocessors and millions of lines of code. This development has brought many improvements in vehicle performance and vehicle safety. Airbags are triggered by electronic controls. Electronic vehicle stability controls keep cars from swerving out of control, and fuel efficiency has increased.

Like any advancement, the increased reliance on electronics can bring new risks, and these need to be carefully examined. But

this did not happen.

In preparation for this hearing, the committee analyzed over 100,000 pages of documents from Toyota and the National Highway Traffic Safety Administration. These documents show that both Toyota and NHTSA have received thousands of complaints of runaway Toyota vehicles, and they show that these complaints increased after the introduction of electronic throttle controls.

But what is most significant is what is missing from the documents. There is no evidence that Toyota or the government's agency, NHTSA, took a serious look at the possibility that electronic defects could be causing the problem. Toyota did not initiate a study into possible electronic effects into just until just 2 months ago, and NHTSA still does not have an electrical or software engineer on staff.

Our review indicates that Toyota received as many as 2,600 complaints of runaway vehicles through its telephone hotline alone. Over 700 of these incidents resulted in accidents. Toyota had three responses: first, blame the driver; second, blame the floor mat; third, blame a sticky gas pedal. And NHTSA, without doing any meaningful independent review, accepted Toyota's explanations.

Today, we will hear from Toyota's U.S. President, Jim Lentz, who will testify; and he has cooperated with our investigation, which I very much appreciate. He has said that Toyota was "very confident that the fix in place is going to stop what's going on."

As we will learn today, that seems unlikely.

On our first panel, we are going to hear from Rhonda and Eddie Smith, who will describe Rhonda's harrowing account of driving a runaway Toyota vehicle. Their account does not sound like a driver error, a floor mat problem, or a sticky pedal. It sounds like an electronic defect.

On the same panel, we are going to hear from two automotive experts, Sean Kane and David Gilbert. They have been trying to identify possible electronic defects in Toyota vehicles. I am not an electronics expert, but if what they say is true, Toyota vehicles have a serious flaw in their electronic control systems that leaves them vulnerable to sudden unintended acceleration.

One question we will ask today is, why didn't Toyota and the government agency do the kind of investigation that Mr. Kane and Dr. Gilbert have done? Toyota failed its customers, and the government neglected its responsibilities. Today we will try to find out why.

Given all that Toyota has achieved over the past 50 years, it would be wrong for Toyota to be permanently impaired as a result of the safety failures that have occurred. Toyota is a great company, and I hope it will have a great future. But fundamental reforms are needed in Toyota's leadership. Consumer complaints need to be taken seriously. The possibility of electronic defects must be actively investigated, and safety must start coming first.

Fundamental reforms are also needed at NHTSA. The agency

lacked the expertise and resources to critically assess Toyota's insistence that its vehicles could not fail.

Ultimately, I believe that addressing this problem will require legislation. Carmakers have entered the electronics era, but NHTSA seems stuck in a mechanical mind-set. We need to make sure the Federal safety agency has the tools and resources it needs to ensure the safety of the electronic controls and onboard computers that run today's automobiles.

Again, I thank you, Mr. Chairman, for holding this hearing. I look forward to hearing from our witnesses so that, as a result of this hearing, we can take a constructive step forward to correct this problem and make sure that future problems that may even affect people's lives are dealt with so that they will not occur.

I yield back my time.

Mr. Stupak. Thank you, Mr. Chairman.

Next, we will hear from the ranking member, Mr. Burgess of Texas, for 5 minutes, please.

Dr. Burgess. Thank you, Mr. Chairman, and I thank you and Chairman Waxman for convening this important hearing.

I thank our witnesses for being here. Thank you to the Smiths from Tennessee for sharing your compelling story with us today.

So far, this committee has received thousands of documents from both Toyota Motor Company and the National Highway Traffic

Safety Administration, showing the complaints they have received over the years and their investigations into those complaints. While this committee's investigation is ongoing, it is clear that Toyota and the National Highway Traffic Safety Administration received numerous complaints about sudden unintended acceleration in Toyota vehicles.

Lately, you can't pick up the newspaper without reading a new announcement about a problem with a Toyota -- Lexus, Camry, Prius, and now Corolla. In 4 short weeks, we heard in rapid succession that there was a problem with floor mats, then the pedals got stuck in the floor mat, that the pedals themselves were sticky and stayed depressed even after the driver took his or her foot off the gas.

Many of us are surprised at the swiftness, the breadth, and the depth of this recall by a company that, really, we are all familiar with for having had a good reputation as a car company that makes quality, safe products; and many owners are very loyal to the brand. In fact, last year, Toyota was the number one in auto sales in the United States. Corolla is the number one seller worldwide.

Unfortunately, the issue at the heart of this hearing is not about loyalty. It is the battle between economics and safety, and safety must always come first. The economics of this debate says that Toyota made more money last year in the recession than any other automaker, over $800 million; and Toyota's infrastructure is

built on 1,500 auto dealers in this country and numerous manufacturing plants, all of which provide 200,000 needed jobs in this recession.

In fact, Mr. Chairman, I have a letter from my Governor about the Toyota plant in San Anthony, Texas; and I will submit that for the record.

[The information follows:]

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Dr. Burgess. I am uncomfortably aware of the fact that this government, through the Troubled Asset Relief Program, has given $64 billion to prop up General Motors and Chrysler. This is an inherent conflict of interest, and it has only grown since last month when the General Accountability Office said that the American taxpayer would lose over $30 billion of their investment into those two companies. So we really are not just a disinterested panel of individual car owners and stockholders. This is why we need to get out of the business of bailing out business.

But, again, nothing should surpass the safety of the American consumer, which is why we are here. A document created by the National Highway Traffic Safety Administration's staffer during the course of the 2004 investigation into sudden acceleration shows a spike in these problems starting in 2002, the year that Toyota put in electronic throttle control in some of its cars. We have also learned that State Farm noted an increase in claims related to unintended acceleration as early as 2004 and shared its claims data with the agency in 2006.

Yet here we are, 4 years later, and there isn't a conclusive answer as to what caused the unintended acceleration. Is it Toyota's fault? Is it the fault of the parts dealer, the operator?

These questions, of course, are cold comfort for the families

who lost loved ones in accidents following an acceleration event, and they deserve answers. But even as we work now to figure out as soon as we can what happened it is important that we get the full story and the correct answer so we can fix the problems going forward.

We know that there were signals that Toyota and the National Highway Traffic Safety Administration both received in the form of driver complaints and warranty claims. We know NHTSA attempted to look into the issue; and, for reasons I hope that Secretary LaHood will explain today, NHTSA did not find an electrical problem with Toyota's electronic throttle control.

We also note Toyota did lots of testing and field investigations of these events and concluded that the problems were floor mats and sticky pedals, both problems that can be termed mechanical in nature. We do not yet have a good handle on what electrical test Toyota did on its cars during preproduction. We do not know how Toyota reached a conclusion that cars were not having electrical problems. We know that Toyota has recently hired an outside firm to run down these problems, but did Toyota do anything as these complaints were coming in? And, if not, why not?

I hope we start getting a better idea of Toyota's response to these questions today and a fuller picture of what is wrong with these cars. Toyota's reputation for safety and reliability has been its stock in trade. I would say to Mr. Lentz, it is why

people buy your cars and drive their families in them. It is why I own a Prius. We hope you can explain today why Toyota is confident that floor mats and sticky pedals have caused some of these events and what you are doing to figure out the causes of the other unintended acceleration events.

I also welcome Secretary LaHood. He has always worked in a bipartisan manner. I would like to publicly thank him for coming to my district last fall for a transportation event. His courtesy is always appreciated.

But I do look forward to hearing Mr. LaHood explain why it seems that NHTSA has been engaging in a sudden acceleration of Toyota-related inquiries. Why the sudden ramp-up? What was NHTSA doing for the last 5 years as the drivers called the agency to complain about runaway cars? Were the Toyota complaints that NHTSA was seeing different in nature or number from the complaints related to other manufacturers? And I do hope we can get some insight into how NHTSA investigated these complaints.

Thank you again, Chairman Waxman, Chairman Stupak, for convening this hearing. I know this will be the start of a long and multilayered process to discover the truth and what initiated the recalls and what we do going forward to fix the problem for the American consumer.

Mr. Stupak. Thank you, Mr. Burgess.

Mr. Dingell for an opening statement, please.

Mr. Dingell. Mr. Chairman, I commend you for this hearing.

I thank you for your efforts.

I will be asking yes-or-no questions today, and I hope no one will perceive this as discourteous or mean-spirited. I know you will conduct a fair hearing. And I ask unanimous consent to insert my full statement in the record because I would rather use the time for questioning. Thank you.

[The prepared statement of Mr. Dingell follows:]

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Mr. Stupak. Thank you, Mr. Dingell.

Mrs. Blackburn for an opening statement, please.

Mrs. Blackburn. Thank you, Mr. Chairman.

First, I want to welcome Eddie and Rhonda Smith, who are from Tennessee; and I want to thank them for taking the time to come up today. We are appreciative of that.

This hearing is of utmost importance, but I am starting to become a little bit concerned about the tone that is surrounding it. This should not be a trial but rather a hearing to get to the bottom of some very important consumer safety issues, and I hope that that is how we will proceed.

Every day we are hearing a combination of new information and, unfortunately, some new misinformation that clouds the debate, and my hope is that that misinformation is not being circulated for political purposes or to be hurtful.

This is a very, very serious issue involving the loss of lives. In addition, it has resulted in the loss of jobs; and the loss of thousands of paychecks are being sacrificed, also.

Also, again, Mr. Chairman, let me say that this is too important an issue for us to play around with or to play politics with. And it is not a new issue. While I feel that many Members of this body and, unfortunately, this committee are inserting themselves at the 11th hour, this is something that I have been working on for years.

I have three letters that I sent in 2007 on this issue. I sent one to Chairman Dingell, another to Toyota, and another one to NHTSA, encouraging and urging this committee and the administration to look at the issue of unexpected acceleration in the Toyota Tacoma.

In conclusion, I would just ask that we all listen to our expert panelists today in an effort to find out the truth and to draw reasonable conclusions as to how to best move forward to assess the lessons learned and to be certain that mistakes of the past are not repeated in the future. To do anything else would be irresponsible at a time when there is so much on the line.

Thank you, Mr. Chairman; and I ask unanimous consent to submit my letters for the record.

Mr. Stupak. Without objection, your letters will be submitted for the record.

[The information follows:]

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Mr. Stupak. By unanimous consent, I am going to ask Chairman Rush, who is chairman of the Consumer Protection Subcommittee who has jurisdiction over NHTSA, to give an opening statement at this time.

Mr. Rush. Thank you, Mr. Chairman. Mr. Chairman, I really appreciate you recognizing me, although I am not a member of this subcommittee, but I do have an opening statement.

Currently, there are more than 205 million licensed motorists in the United States. And as our families and workforce become increasingly mobile, our society has, likewise, become more dependent on the so-called smartness features, energy efficiency factors, and the safety of our automobiles. Understanding this reality all too well, automobile dealers and makers, especially manufacturers of the high quality that Toyota has historically represented, basically brag in all sorts of slick advertising that their vehicles are the biggest, the baddest, and the boldest and, indeed, the safest car on the road.

So what happened to Toyota? Hear me when I say that I am profoundly discomfited and disturbed by the findings of our committee staff.

My concerns, Mr. Chairman, go far beyond Toyota's safety practices and recall decisions. They stand to the National Highway Traffic Safety Administration's apparent sluggishness in reinventing itself. It appears as if NHTSA failed to assign an

appropriate mixture of staff and resources to keep up with the evolving and changing auto design technology, especially with respect to increased computerization.

I am adamant about getting to the bottom of the causes for sudden unintended acceleration in Toyota's fleet of passenger vehicles. As chairman of the Commerce, Trade, and Consumer Protection Subcommittee, I will be conducting a separate hearing in March to look into further NHTSA resources, staffing, and management philosophies as part of that agency's reauthorization.

Mr. Chairman, my sympathies and condolences go out to these families who have lost loved ones and certainly those consumers who have sustained grave injuries in crashes and accidents involving faulty Toyota and Lexus automobiles. I also extend these same sentiments to any automobile driver on the highways and streets and byways of our Nation who had the misfortune of encountering one of these faulty vehicles.

The fact is is that when these motorists and passengers took the simple routine step of getting into their cars, they had no idea that their entrusted vehicles had the potential to become literally killing machines. This is beyond the expectations, and this is totally unacceptable.

I, along with millions of Americans, will be paying close attention to the answers given here today as well as to their testimony before other congressional committees today and in the future. Quite frankly, if some of the alleged behavior

and failure to act that I have read in the media turns out to be true, then Toyota is perhaps driving down the road to an inquiry by the Justice Department.

Mr. Chairman, I promise all motorists, passengers, and pedestrians that my subcommittee will do everything in its power to restore confidence in NHTSA; and I will also work to ensure that affected Toyota and Lexus owners have full and immediate recourse to whatever equipment they need to remedy these safety defects. My hope is that consumers will once again have peace of mind when they turn on their vehicles and, yes, when they apply their brakes.

Thank you, Mr. Chairman; and I appreciate this hearing and opportunity to provide testimony at the hearing.

Mr. Stupak. Thank you, Mr. Rush.

Mr. Gingrey for an opening statement.

Dr. Gingrey. Thank you, Mr. Chairman.

I appreciate this opportunity to offer a few opening remarks, and I certainly look forward to listening to the testimony of our witnesses as we seek to understand the full scope and impact of sudden unintended acceleration.

While I believe that this subcommittee has a responsibility and a duty to thoroughly investigate this matter, including the responses by Toyota and by the National Highway Traffic Safety Administration, NHTSA, I would like to echo the concerns of others on the subcommittee that more could have been done in preparation

for the hearing, even if it required a little bit more time to thoroughly vet a full range of witnesses, review over 70,000 pages of documents, and more deeply look into the underlying complex mechanical and electronic issues. Certainly we have an obligation to investigate potential threats, but we also have an obligation to get the whole truth to apply wisdom in our deliberations.

Additionally, I know some have expressed concern at the possibility that since the Federal Government now has a vested interest in some of our domestic auto manufacturers it may have some incentive to highlight potential flaws with competing manufacturers. While I hope and I believe this is not the case, just because I am paranoid doesn't mean somebody isn't out to get me. We have to be cognizant of perception, especially in this post-bailout world where the Federal Government has already placed itself in the business of picking economic winners and losers.

Nonetheless, our first and foremost obligation is to the safety and security of the American people; and if there is a problem here that can jeopardize people's safety and lives, we must identify it, understand it, and assure that it is addressed and it doesn't happen again. So I look forward, along with my colleagues, to listen to and very carefully consider the testimony of our witness as we seek to get to the root of this issue.

Mr. Chairman, I thank you; and I yield back.

Mr. Stupak. Thank you, Mr. Gingrey.

Mr. Markey for an opening statement, 3 minutes, please.

Mr. Markey. Thank you, Mr. Chairman, very much.

Like millions of Americans, I drive a Toyota, a Camry hybrid that has thus far not been recalled. Like millions of Americans, one of the reasons that I purchased a Toyota in the first place was its stellar reputation for safe, reliable, and fuel-efficient vehicles. And like millions of Americans, I am troubled by the series of revelations that have led us to today's hearing; and, as the recall continues, I also find myself wondering what went so wrong.

The October 2009 recall of more than 4 million vehicles due to floor mats that were entrapping accelerator pedals raises troubling questions about what Toyota knew and when they knew it. While the government seemed to have first started to investigate this problem in 2007, I have learned of a Lexus recall undertaken by Toyota in the United Kingdom in the year 2000 because -- and I quote -- "there is a possibility that the driver's side carpet mat may rotate around the central fixing and interfere with the operation of the accelerator pedal."

And then in Canada in 2003, Toyota Celicas were recalled because "the driver's floor mat may slide along the interior floor carpet when pressure is applied to the mat by getting in and out of the vehicle. As a result, the floor mat may come into contact and interfere with the accelerator pedal."

If Toyota first learned that this could happen 10 years ago in the U.K. and then again in Canada 7 years ago, why didn't it do

something before additional fatalities and other serious accidents occurred?

Toyota's response to increased scrutiny of its safety record leaves much to be desired. In recent days, we have learned of internal documents that cite Toyota's success at limiting the outcome of the government's safety investigations which reportedly saved $100 million. Saving money should not come at the expense of saving lives.

And, finally, many safety experts who have reviewed complaints regarding sudden acceleration in Toyota vehicles do not believe that floor mats and sticky pedals can fully account for all of the complaints. Some have speculated that there may be more problems, particularly in the areas of the vehicles' electronic controls.

While Toyota asserts that its outside experts found nothing wrong with their cars' electronics, those tests were based on incomplete examinations of only six vehicles. Clearly, much more must be done. The question is whether the problem with these vehicles is due to how you put your boot on the gas pedal or whether it is because Toyota needs to reboot the electronic software in its cars. That is what this hearing will be all about, and that is what the reforms will be that we ultimately pass as legislation.

I thank you, Mr. Chairman.

Mr. Stupak. Thank you, Mr. Markey.

Mr. Sullivan for an opening statement, 3 minutes, please.

Mr. Sullivan. Thank you.

I first want to thank Chairman Stupak and Ranking Member Burgess for holding this hearing. I am pleased to be a part of this important discussion as consumer safety and in this case in particular auto safety is extremely important to our Nation for many different reasons.

With well over 250 million passenger vehicles on the roads, safety must remain our number one priority; and statistical information indicates that we are meeting that goal. Over the last 50 years, significant technological advancements in the design and construction of automobiles and reasonable Federal regulatory initiatives have increased overall road and vehicle safety. As a result, fatalities and serious injuries resulting from motor vehicle crashes in the U.S. are at the lowest level in 49 years, despite constant growth in licensed drivers and registered vehicles.

Over the past week, I had the privilege of visiting and speaking with a Toyota dealer, Jim Norton, in my district and saw some of these problems and the remedies firsthand.

While vehicle safety must remain our goal, I think it is important to hear all sides of the story, look at all available data, and examine the entire process before we jump to any conclusions at the expense of one manufacturer and potentially do more harm than good by misleading the consumer with presumptions

based on unfinished studies.

Thank you in advance to our panel before us, and it is my hope that our discussions here today do what it is meant to do by shedding light on this situation so that we can maintain the U.S. position as the world's leader in auto safety.

I yield back my time.

Mr. Stupak. Thank you, Mr. Sullivan.

On this side, Mr. Doyle for an opening statement.

Mr. Doyle. Thank you, Mr. Chairman. I will be very brief.

Mr. Chairman, this investigation is not intended to attack any one person or one company. This investigation is to see if the cars we drive are safe. It is to help us determine whether car manufacturers have done all they can do to ensure our safety, and it is to determine whether the regulators did all they could to double-check their work. That should be the focus of this investigation, and I know we have three panels, and I look forward to hearing from them.

Thank you.

Mr. Stupak. On this side, we have other Members who are here but are not members of the subcommittee. They are welcome to submit a written statement. Thank you for being here, Mr. Shimkus, Mr. Buyer, Mr. Whitfield, and Mr. Terry.

On this side, next will be Ms. DeGette for an opening statement, please.

Ms. DeGette. Thank you.

Mr. Chairman, you need to look no further than me to find a loyal long-time Toyota owner. I have three Toyotas, and I have two daughters. My 1988 Camry is the car that I brought my 20-year-old daughter home from the hospital in, and it is the car she drives now.

Most recently, after years of satisfaction with the Toyotas, I was excited to get one of the very first Camry hybrids. And imagine how I felt when my staff came in and told me what Toyota told us to do if the accelerator sticks and we can't slow the car down.

How did we get from 1988 to this? While Toyota has always had great consumer loyalty and, as they will remind you, a low percentage of safety recalls in the U.S., persistent questions exist.

When and how did Toyota learn of these acceleration issues and how did they respond? Was this revealed to U.S. regulators and how did they respond? What was the role of NHTSA and did they take this investigation seriously? Did they make a deal with Toyota that limited a tough and thorough investigation? Has Toyota adequately analyzed all of the potential consequences of unintended acceleration, including whether or not electronic throttle systems may be a part of the cause? Do the recalls to date encompass the entire problem?

Now, look, these questions, to me, they are not partisan questions. They are questions all of us should be asking on

behalf of our constituents who drive Toyotas and, like me, have been satisfied Toyota customers for many, many years. And in the end, for me, the answers to these questions are not academic, and here is why: In less than 2 months, my 16-year-old daughter will be getting her license, and the car that she is going to be driving is the 1994 Camry wagon. So let's get this right. Let's make sure these cars are safe for all American teenagers and adults to drive.

I yield back.

Mr. Stupak. Thank you.

Mrs. Christensen, opening statement, please.

Mrs. Christensen. Thank you, Mr. Chairman.

After years of buying only American-made make and model cars, because I was also trying to be a responsible global citizen, when it was time to replace my 12-year-old car, I went in search of a hybrid. I decided on a Prius but ended up with a cute little Solara convertible, soothing my conscience by reminding myself that Toyota made cars in this country and, of course, of what was then your stellar history for safety quality and service.

To tell you how I felt about my car, when that commercial asked, when you turn on your car, does your car return the favor, I used to be able to answer yes. Now I am weary as I drive it, and when I go online, all I find out is that it is no longer being made. We Solara owners also need to know if there has ever been a problem and what was done to correct it so that we know we don't

have to worry.

But that is not the most important part of my story. The one that gives me sleepless nights right now is that my two daughters and three and a half grandchildren drive in Toyota-made cars every day, a 2006 RAV4 and a 2005 RX330 Lexus. So I want to hear from Mr. Lentz and Secretary LaHood assurances that they are and will be safe from any manufactured cars' failures and that, if they have a problem, they won't have to go through the ordeal that Mr. and Mrs. Smith had to go through.

And I want to say that I do appreciate the efforts Toyota is undertaking, but it is too late for the family in San Diego and only by the grace of God do we have an intact Smith family here with us today.

So take much more than your press releases and lobbying. And I must say that those of your lobbyists with whom I have worked I have great respect for you, but it is time for you to not just rebuild your image but to rebuild our trust. I hope that you will be able to do that quickly, not just for Toyota's good name but for the lives you carry in your cars every day and for the many direct and indirect jobs you provide in the United States and the families that those jobs support.

I also want to use this opportunity to say to other car manufacturers -- because Secretary LaHood will attest that similar complaints come in on every make of car -- that I also depend on all of you to put quality and safety over profits, to do the right

thing by all of us consumers, to respond to complaints immediately, to investigate the complaints fully, and not to wait to be asked or to be made to issue a recall but to do so early when lives are at risk for whatever reason.

And to the NHTSA and to all who have regulatory authority, we need you to exercise that authority as though the lives of your children and grandchildren, like mine and countless others, depend on your decisions.

I want to thank Mr. and Mrs. Smith for their persistence and for being here today to tell their personal story, to welcome Mr. Kane, Mr. Gilbert, and Mr. Lentz.

Secretary LaHood, when you arrive, it is always good to see you and to have you back.

Thank you, Chairman Stupak and Ranking Member Walden for ensuring once again that we fulfill our oversight responsibility on yet another very important issue in such a timely manner.

I yield back my time.

Mr. Stupak. Thank you.

Mr. Green for an opening statement, please.

Mr. Green. Thank you, Mr. Chairman, for holding this hearing today on the recall of Toyota vehicles.

I would like to recognize a person in the audience, when I was much younger, as a State legislator in Texas, Joan Claybrook, who is here and a former administrator I think in the Carter administration on the highway safety issue.

Mr. Chairman, I think with opening statements you will hear personal stories from our own members but also I think express our disappointment in the Federal and Toyota's response to the initial accidents.

And, on a personal note, like my colleagues, I have to admit I have always driven Chevrolets. But the second generation in my family, my two children who are now adults, actually drive Toyotas. My son loves his Toyota Tundra. In fact, he is on his second truck; and it is built in Texas, he tells me. I remind him my Chevrolet Tahoe is also built in Texas.

So I guess that is where the frustration is, is that Toyota has had such an image of perfection and if there is a problem fixing it. We know from at least the publicity and from the hearing and testimony that is under review that that fell down, and that just wasn't what people expected.

Since national attention was brought late last summer, Toyota has recalled more than 6.5 million cars for two different problems. But as we hear from our first panel today, Mr. and Mrs. Smith, this issue was present in Toyota cars for several years, and we are here today to examine whether Toyota and the National Highway Traffic Safety Administration responded in a necessary and timely manner.

Mr. and Mrs. Smith, I want to thank you for being here to recall your harrowing experience and to shed some light on the problems you faced when you tried to bring this matter to the

attention of both Toyota and the government officials.

The two separate issues for recall of Toyota vehicles were so-called pedal entrapment and the sticky pedal. In September of 2007, Toyota first issued a recall for all-weather floor mats in Lexus and Camry vehicles that caused the pedal entrapment. While this took place over 6 months after NHTSA initially opened its investigation into the pedal entrapment issue, response to the recall was low.

It took another crash due to pedal entrapment -- luckily not fatal -- for NHTSA to urge Toyota to reissue the recall notice in January of last year, 2009. Unfortunately, the recall was still not widely responded to by consumers and even a dealer, who last August loaned a car to a Mark Saylor and his family. The loaner car had a floor mat from a different model that trapped the accelerator.

After that crash, NHTSA determined Toyota address the issue more thoroughly than just replacing floor mats, which resulted in a Toyota recall of vehicles in October of 2009 and expanded in November to reshape or replace the accelerator pedal for 4.26 million vehicles.

What we need to look at today -- and I hope some of our witnesses can answer it -- is why neither NHTSA nor Toyota realized there was not enough clearance for the accelerator when the issue first came up in 2007 and why this issue was not addressed more quickly.

The second issue of the sticky pedal did receive a quicker response, and I commend Toyota for bringing information to NHTSA before an investigation was open for quickly issuing a recall.

There are, however, other issues in Toyota vehicles that have been reported to NHTSA involving accelerator problems; and it is important NHTSA investigate these issues thoroughly before dismissing them. To do that, NHTSA must have the necessary resources and hire staff to investigate all issues, whether it is mechanical or something in the electrical system.

I look forward to hearing from today's witnesses on what we can do to support NHTSA's mission and what changes are being made following this series of recalls. Again, I want to thank the witnesses for being here; and, Mr. Chairman, thank you for holding this very timely hearing.

Mr. Stupak. Thank you, Mr. Green.

Ms. Sutton of Ohio for an opening statement of 3 minutes, please.

Ms. Sutton. Thank you, Mr. Chairman, for holding this important hearing.

For almost every American buying an automobile is one of the most important purchases, the biggest purchases of their lives. Consumers spend countless hours researching vehicles as they prepare to make this large and important purchase.

And why do they do that? They do that because they know they need a vehicle they can count on. They know that they will need a

car to transport them as they go about their daily lives; and, most importantly, they want to know that they have purchased a car that will transport the most precious cargo that they have, which is their families, their children.

Trust is a fragile thing. It is hard to win, and it is easy to lose, and it finds its hold in promises kept and honesty sustained, which is why the problems that the millions of Toyotas have been experiencing have been so shocking.

As documents have become public, we have learned that Toyota has been aware of these problems for years. It was revealed this week that Toyota officials took credit for saving $100 million by successfully negotiating a limited recall on floor mats with NHTSA several years ago.

Consumers deserve better. It is unacceptable when companies and importers pay more attention to their costs than to the safety of their customers. According to NHTSA's data, 34 people have died in the past decade in crashes that may have been caused by sudden unintended accelerations in Toyota vehicles. Toyota and NHTSA have received thousands of complaints involving unintended accelerations from across the country.

Yes, this hearing is extraordinarily important. In many instances, consumers were told that they installed the floor mats incorrectly, but the installation of floor mats can't possibly explain thousands of complaints.

Recently, Toyota identified a problem with sticky pedals and

are currently altering or replacing these devices. But the committee's investigation has revealed that Toyota's own counsel stated that a sticky pedal "typically does not translate into a sudden high-speed acceleration event," which leaves Americans wondering about the extent of the problems.

Toyota says that the problems are not related to the electronic throttle control system, but 6 years ago NHTSA compiled data that showed that Toyota Camrys with electronic throttle controls had over 400 percent more vehicle speed complaints than those with manual controls.

These are very concerning issues that we have to get to the bottom of. There is little doubt that Toyota's disappointing actions and the disappointing things that have come to light in the course of this investigation have to be looked at, and they have resulted in the loss of sales for this company. I am very concerned that they will also result in the loss of jobs for workers who have done nothing through the fault of their own to face that potential consequence.

But for the safety of all Americans this recall needs to be done right, and the problems need to be fixed, and the American people need to have the solace of knowing that NHTSA and Toyota are giving the highest of priority to ensuring the safety of the vehicles and the precious cargo that they carry.

I yield back.

Mr. Stupak. Thank you.

Next, we will hear from Ms. Schakowsky of Illinois, a member of the subcommittee. Ms. Schakowsky.

Ms. Schakowsky. Thank you, Mr. Chairman.

I want to thank all of our witnesses for coming. I want to just especially note David Gilbert, who teaches in my State as an associate professor of automotive technology at Southern Illinois University. I look forward to the testimony of all of our witnesses.

Like my colleagues, I am extremely concerned about the circumstances that bring us here today. I am concerned that Toyota put unsafe products on the market. I am concerned that Federal regulators had knowledge of unintended acceleration in some Toyota models in late 2003, as Secretary LaHood has acknowledged, but that it took 3 years before an initial investigation into floor mat problems was started.

I am pleased that Toyota has taken action on the issue of pedals being caught in floor mats as well as the issue of sticky pedals and that recalls have followed, but I remain concerned about reports of other unintended acceleration incidents that don't fit neatly into either of those categories and that the company has dismissed those reports. If there is a problem with the electronic system that controls acceleration, we need to know what it is, and it needs to be fixed immediately.

We have also heard reports that State Farm Insurance reported Toyota had acceleration problems to the Department of

Transportation in 2004 and that since 2000 there have been more than 2,600 complaints about unintended acceleration in Toyota vehicles and possible links to 34 deaths. I am concerned about whether NHTSA has had the resources necessary to sufficiently investigate these complaints; and I look forward to hearing from my former colleague, Secretary LaHood, about what he needs to effectively rebuild the agency.

In the coming months, Chairman Rush and I, as the Vice Chair of the committee, will be working on NHTSA reauthorization; and the pieces of the puzzle that we are talking about today are critical to our discussions about the future of the agency and whether it needs additional resources in terms of funding, expertise or authority.

Thank you, Mr. Chairman; and I yield back.

RPTS COCHRAN

DCMN BURRELL

[12:00 p.m.]

Mr. Stupak. Thank you.

Last, but not least, a member of our subcommittee, Mr. Braley of Iowa, for 3 minutes for an opening statement, please.

Mr. Braley. Thank you, Mr. Chairman.

I want to make this clear at the beginning in response to some of the concerns mentioned on the other side of the aisle: I am an equal opportunity consumer safety advocate. I think every manufacturer that sells products in this country should be able to justify that they are doing everything they can to ensure that those products are safe and protect consumers from harm. That includes American automobile manufacturers and foreign automobile manufacturers that do business in this country.

But here are some questions that I think American consumers deserve answers to at this hearing:

One, why has Toyota, with the deserved reputation for its commitment to excellence and safety that you have heard mentioned here today, why do they refuse for so long to seriously address the possibility of a failure of its electronic throttle control system as a contributing factor to sudden unintended accelerations?

Two, once this committee began its investigation of this

problem, why did Toyota turn to its product liability defense attorneys at Bowman and Brook to hire its independent expert, Exponent, Inc., to analyze this problem.

Three, was the interim report produced by Exponent, Inc., to justify Toyota's position the equivalent of junk science, and how much credibility should it be given by this committee and American consumers?

Four, is NHTSA, with its important jurisdictional responsibilities, capable, without major changes to its funding and its staff, of making an independent determination of the underlying causes of this problem, given the changing nature of the automobile industry and the increasing reliance upon electronic and computer data?

Five, is there data available in these vehicles that is being withheld from the American public and from regulators of public safety that would give us clues into the underlying cause of these problems, and I am talking specifically about the black boxes that now provide countless amounts of data, and yet are protected from public disclosure in every attempt to try to find out what type of computer data might be available to try to justify and explain why these problems happen.

These are some of the questions I hope that American consumers get answers to today.

I ask unanimous consent to submit my full statement for the record, Mr. Chairman.

[The prepared statement of Mr. Braley follows:]

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Mr. Stupak. Without objection, your statement and all statements of members will be submitted for the record.

I misspoke, Mr. Welch is a valuable member of this subcommittee. I didn't see you down there, Peter, if you have an opening statement?

Mr. Welch. Thank you very much, Mr. Chairman.

There really is one proposition that is not negotiable, and that is the safety of the American people, the American consumer, and that proposition requires us to ask two questions: Is the National Highway Transportation Safety Administration up to the task of the job, and what do they need to do in order to do that job better?

Second, what did Toyota do, did it do it soon enough, and is it doing it now aggressively enough?

But this question of protecting the public does require governmental response, whether it is involving a car or a toy manufactured from China that is imported here and used by our kids. And the fundamental responsibility when it comes to safety is both with government to have agencies that are looking out for the interests of the American people, and government has been woefully inadequate in doing that, not just in some consumer safety issues, but even in financial products like subprime mortgages.

Mr. Chairman, I am glad our committee is back on the job.

But, secondly, we have an obligation to be fair to all concerned, that is to the dealers, to the manufacturer, to the folks who work in my case Toyota dealerships in Vermont. I have had a chance to speak to Dave Birmingham and Karen and Dan Luneau who are very proud of the work they do. 640 Vermonters work in this. So this hearing is going to make certain that we get to the bottom of these questions about the government and about Toyota, but it has to be fair to all concerned.

Thank you, Mr. Chairman.

Mr. Stupak. Thank you, Mr. Welch.

Let me also thank other members of the committee who are present but are not members of the subcommittee but are interested in this hearing, but they are here and their presence is appreciated. Mr. Gonzalez is here, Mr. Engel is here and Mr. Gordon is here. Thank you for being here. If you want to submit any written opening statement, we will be happy to receive it.

That concludes all of our opening statements. Before we have our first panel, Mr. Lentz of Toyota has been here with some of his staff and they were courteous enough and didn't want to interrupt the opening statement. If they would like to come forward and have a chair, we would be happy to have them. I always appreciate it when witnesses, no matter what panel they are on, will sit through a full hearing so they get a full favor of our hearings.

So if Mr. Lentz and his staff would like to come up, that

will be great. We will recess for a minute while they do that. There is about six seats up front here, if you would like to take the seats up front. That would be great.

Let me call our first panel of witnesses. On our first panel we have Mr. Sean Kane, who is President of Safety Research and Strategies, Incorporated; Dr. David Gilbert, who is an Associate Professor of Automotive Technology at Southern Illinois University; Eddie and Rhonda Smith of Sevierville, Tennessee, who own a Lexus ES350 that experienced sudden unintended acceleration in 2006. I ask the witnesses come forward.

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 House to be advised by counsel during your testimony. Do any of you wish to be represented by counsel?

Everyone indicating nodding their head no. I take it as a no then. I am going to ask you to please rise and raise your right hand to take the oath.

[Witnesses sworn.]

Mr. Stupak. Let the record reflect that the witnesses replied in the affirmative. Each of you are now under oath.

We will hear a 5-minute opening statement from our witnesses. You may submit a longer statement for inclusion in the hearing record.

Mr. Smith, if you don't mind, do you want to start, or would you like Mrs. Smith to start? Rhonda, do you want to start first?

I am going to ask you to pull that mike up, turn on that button there. The green light should go on. I understand you are going to go 5 minutes and you are going to give it to your husband and he is going to go 5 minutes. Is that correct?

Mrs. Rhonda Smith. Yes.

Mr. Stupak. When you are ready. Thank you for being here.

STATEMENTS OF SEAN KANE, PRESIDENT OF SAFETY RESEARCH & STRATEGIES, INCORPORATED; DR. DAVID GILBERT, ASSOCIATE PROFESSOR OF AUTOMOTIVE TECHNOLOGY AT SOUTHERN ILLINOIS UNIVERSITY; AND EDDIE AND RHONDA SMITH OF SEVIERVILLE, TENNESSEE

STATEMENT OF RHONDA SMITH

Mrs. Rhonda Smith. I would like to begin by thanking the honorable members of this committee and also Mr. Sean Kane and his staff for inviting us here to testify today regarding the much publicized sudden unintended acceleration, or often known as SUA, that has been and is currently being experienced by Toyota drivers, not only in the United States, but all over the world.

SUA has been the cause of numerous deaths and will continue to be unless addressed by this committee, Toyota, and NHTSA. We truly appreciate this opportunity to share our story now since we have attempted numerous times since October 2006.

My name is Rhonda Smith and this is my husband --

Mr. Doyle. Mr. Chairman, could we get the microphone up? It is hard to hear her.

Mr. Stupak. Try that.

Mrs. Rhonda Smith. Is that better?

My name is Rhonda Smith, and this is my husband of 38 years, Eddie Smith. I am a retired social worker with the State of Tennessee and Eddie is a Senior Vice President at a bank in Sevierville, Tennessee. I am truly thankful to be here today, and I feel I am speaking on behalf of those who lost their lives needlessly, unnecessarily, and I would like to share an incident with you concerning SUA that I experienced October 12, 2006, in

our new Lexus ES350.

This car had 2,728 miles on it when the incident occurred. The vehicle had a keyless push button ignition and required a key fob to be present inside the car in order for it to start.

On that Thursday, October 12th, 2006, and I am going to read this, because I tell you, it still upsets me today, I was driving from my home in Sevierville down Highway 66 to the interstate, Interstate 40, and upon entering the interstate, I accelerated with everyone else into the flow of traffic. And at this point I merged into the second lane, not going into passing gear.

At this time, I lost all control of the acceleration of the vehicle. The car goes into passing gear and the cruise light comes on. At this time, I am thinking that maybe the cruise is what caused the car to keep accelerating as my foot is not on the gas pedal. I take off the cruise control, but the car continues to accelerate.

To make a long story short, I put the car into all available gears, including neutral, but then I put it in reverse and it remains in reverse as the car speeds to over 100 miles per hour down the interstate.

I placed both feet on the brake after I firmly engaged the emergency brake, and nothing slows the car. I figured the car was going to go its maximum speed and I was going to have to put the car into the upcoming guardrail in order to prevent killing anyone else, and I prayed for God to help me.

I called my husband on the Bluetooth phone system. I knew -- I am sorry -- I knew he could not help me, but I wanted to hear his voice one more time. After six miles, God intervened as the car came very slowly to a stop. I pulled it to the left median.

With the car stopped and both feet still on the brake, the motor still revved up and down. At 35 miles an hour, it would not shut off. Finally, at 33 miles per hour, I was able to turn the engine off.

After my husband arrived, he found nothing unusual about the accelerator or the floor mats, but the strange thing was that the dash lights and the radio were still on. After the wrecker arrived, we gave the vehicle fob to the wrecker driver. When he hooked the car and prepared to winch it onto the rollback, he asked my husband to put the car in neutral so he could start the winch.

The driver was standing 20 to 25 feet away at the rollback controls. Without thinking, my husband sat down in the car without the key fob and was able to shift the car into neutral, which he shouldn't have been able to do. But when he did that, the car actually tried to start itself. We have a notarized statement from Tommy Clayton, the wrecker driver, attesting to this.

Toyota said they would inspect our Lexus and contact us. After 10 days, we still had not received a call back. We called

again and got the same assurances. Toyota promised us they would look into our complaint several more times over the next few weeks.

When we finally forced Toyota to respond in writing, we received a five-sentence analysis stating, and I quote, "When properly maintained, the brakes will always override the accelerator." Well, we know that is a lie. And we were outraged that Toyota would suggest in that statement also that the brakes had not properly been maintained in order for that to happen, and the car had less than 3,000 miles on it.

Once again we contacted our dealer and expressed our disgust with Toyota's handling. They recommended we contact NCDS, which is the National Center for Dispute Settlement, and ask for an arbitration hearing.

Our NCDS hearing was a total farce. The representative for Lexus was Mr. Leonard St. Amand, their Tennessee district field technician. Mr. St. Amand, although only an hour away in Kingsport, did not show his face, and he attended via speakerphone. He insisted that he could not recreate the incident and that I had more than likely caused this problem by standing on the brakes while spinning the tires.

Well, of course, we were furious that Toyota called us liars the second time. NCDS denied our claim for a total refund of our purchase price for this specific car, which is all we were asking for.

In mid-March 2007 we turned to NHTSA for help. Mr. Steve Chan and Mr. D. Scott Yon, safety defects engineers, responded. Mr. Yon took over our claim and seemed to be receptive of our concerns that sudden unintended acceleration in Lexus vehicles could cause serious injury, and we told them possibly death at that time, that somebody was really going to get hurt. We furnished pictures of the car and documentation of what had transpired since October 2006.

On April 11, 2007, Mr. Yon flew to Knoxville, Tennessee, and drove to Sevierville to inspect the car. My husband will address that in a moment.

Since neither Toyota nor NHTSA took us seriously, we tried to alert the public through the news media back then. We contacted numerous news agencies, a lot that are probably here today, and we tried all types of media, only to have one local station take an interest in our claim that Toyota and NHTSA were ignoring a deadly problem.

Only one local station, Don Dare with WATE-TV channel 6 in Knoxville, did the story, which aired spring of 2007. We repeated our strong belief that the problem was somewhere in the electronics.

After the Santee, California, crash that killed a California highway patrolman and his family, WATE-TV did a second story on Toyota's sudden unintended acceleration. This was broadcast in February 2010, showing our original interview and a current

interview. We have never wavered from our belief that our problem was electronic, not wandering floor mats. We forwarded this 2010 video to Toyota and NHTSA and received no response.

In early 2008, we reluctantly let go of our mission to persuade Toyota and NHTSA to deal with the problem because the effort was too traumatizing. But we are here today because for the first time we feel our story has been given more than a token of attention. Unfortunately, it took almost 4 years and injuries and lives lost to prompt Congress to take up this important issue.

In 2006 and 2007, we hoped that our efforts not spare others the unnecessary terror and pain of an SUA incident, and it pains our hearts deeply to realize that we failed. But this failure is surely shared by Toyota and NHTSA today. In our view, they have demonstrated an uncaring attitude and disregard for life. The results have been tragic, and today I must say, shame on you, Toyota, for being so greedy, and shame on you, NHTSA, for not doing your job.

It is our hope that this testimony will help all of Toyota's customers in a way that Toyota has not yet done to this day.

Once again, I would like to thank this committee for taking the time to listen to our story. It is about time we were heard, and I hope that Toyota and NHTSA will be held accountable for the poor decisions that have cost some people their lives. We would also like to ask this committee to set a higher standard for NHTSA to be held more accountable in the future.

I thank you.

[The prepared statement of Mrs. Smith follows:]

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Mr. Stupak. Thank you, Mrs. Smith. Mr. Smith, your opening statement. Please pull that mike up.

STATEMENT OF EDDIE SMITH

Mr. Eddie Smith. Good morning. I am sorry, it is good afternoon.

I would also like to take an opportunity to thank the honorable members of this committee for inviting us to testify today and to share our sudden unintended acceleration experience, along with my thoughts and feelings. As my wife told you, my name is Eddie G. Smith. I am the husband of Rhonda, who you just heard speak.

We purchased this 2000 Lexus ES350 because of Toyota's exemplary claim of safety, as we have young grandchildren.

It has been a true experience trying to decide what to say today. You have all heard my wife describe her experience. Now, take a minute and put yourself on the other end of the cell phone listening to what you think are the last words you will ever hear her speak and the imminent death of your lifelong best friend and spouse and not being able to do anything about it.

Besides this being the most terrifying, traumatizing experience of my wife's entire life, it is also the most frightening and heart-wrenching thing I have ever experienced.

Needless to say, she was spared by the grace of God and is still by my side today.

We have never been crusaders for any cause, other than our God, family, and freedom. However, we have been on a mission to get this injustice to the American people noticed, addressed, and fixed.

Toyota was informed of this potentially deadly problem in 2006 and was warned by us numerous times that lives would be lost if this was left unattended. We phoned, e-mailed and wrote numerous letters trying to get Toyota to correct this sudden unintended acceleration problem.

Our complete customer satisfaction that we received, as Rhonda said, was a statement from Toyota stating if properly maintained the brakes would always override accelerations. They called us liars.

Next, Toyota pushed this to arbitration with the National Center for Dispute Settlement. This was one of the biggest wastes of my time and my wife's time and money we have ever seen. It was a complete setup meeting to try and make us go away, and we didn't. Once again we were called liars, and actually accused of ruining our own brakes and transmission. This had the complete smell of a prearranged decision by Toyota and NCDS.

Now we have NHTSA. As you know, NHTSA by their own admission on the Web site is that it is our U.S. administration responsible for reducing deaths, injuries, and economic losses resulting from

crashes. Their mission statement is to save lives, prevent injuries, and reduce traffic-related health care and other economic costs.

At first we got the good warm feeling that someone actually did believe us who cared enough to try and prevent any further possibility of loss of life. They even made a trip to inspect our vehicle. We finally felt our government would actually step in and bring Toyota to task and resolve this issue, thus sparing others from going through the experience my wife went through.

Were we ever wrong again. Now their claim was it was probably the floor mats, thus a massive mail-out of small orange warning stickers to place on the rubber mats. This was their fix.

After reading Mr. Yon's report, we realized that NHTSA had only sat in to sell us on the idea that this problem was not electronics, rather a floor mat. They went through the motions and tried to appease us with this absurd theory.

I was present during the complete investigation by Mr. Yon. The floor mat test referred to in Mr. Yon's report, as you have all read, was a complete fabrication of the truth. This never happened and was never shown to us at any time during his visit. Once again we felt we had only received lip service.

Now that lives have been lost and sudden unintended acceleration seems to finally have been admitted an electronic issue, why does Toyota and NHTSA not remember Rhonda Smith's pleas in 2006 for someone to take heed and fix this killer problem.

My point from all this is to say for a purported reliable and safety concerned company, such as Toyota claims to be, they sure took the easiest and cheapest route on the electronic issue brought to their attention by us in 2006. How many American lives should have been spared? My customer satisfaction from Toyota and NHTSA consists of an extremely traumatized wife. I was labeled a destructive, lying idiot. And I paid the repair bill to fix the brakes, rotors and drums on our 2007 Lexus.

Many have experienced sudden unintended acceleration, and unfortunately some are not alive today to be able to tell their story. Rhonda is here today to testify before this committee for all those who have died and their families. Hopefully some justice will finally be served.

To Toyota, I say your quality and safety record has been totally destroyed by your past and present words and actions. Now your integrity has come into play. How are you going to handle this? We are here today to help see that you don't shove the American people under the rug again and that your true colors are finally revealed.

To NHTSA, I feel you have totally failed the American public, and I personally feel you as our government watchdog need to stop feeding from your Japanese bowl.

Thank you very much for your time.

Mr. Stupak. Thank you, Mr. and Mrs. Smith.

Next we will hear from Mr. Kane from Safety Research and

Strategies. Your opening statement, please, sir.

STATEMENT OF SEAN KANE

Mr. Kane. Yes, thank you, Chairman Stupak and members of the committee.

Mr. Stupak. Hold that up a little bit closer.

Mr. Kane. Thank you, Chairman Stupak and members of the committee, for holding this important hearing, for inviting me to come testify before you today.

I am the President and Founder of Safety Research & Strategies. We are a research and advocacy firm that specializes in automotive and consumer product safety issues.

In addition to providing factual research to attorneys, engineers, corporations, and government, we leverage our understanding of the safety issues to advocate on behalf of consumers. That is part of my company's mission. That is what I have been doing for nearly 20 years.

I have been invited here to really help the committee in understanding how did we get here today with Toyota unintended acceleration, how this problem unfolded, and to address the various related electronic issues that seem to be part of this issue today.

For the record, I am submitting our report, Toyota Sudden Unintended Acceleration, which provides a detailed examination of the issue. We released our report on February 5th and we had an

addendum on the 19th to provide the committee and the public with context for the crisis that has been really in its making for many years.

I am also submitting a preliminary report, Toyota Electronic Throttle Control Investigation, which we commissioned with automotive technology professor Dr. David Gilbert of Southern Illinois University at Carbondale. Dr. Gilbert's preliminary report provides critical insight into the fail-safe detection capabilities of the electrical circuitry designed to prevent unintended acceleration in some electronic throttle controlled vehicles manufactured by Toyota.

In our report, we look at the complexities and inconsistencies in the public record. Almost everything we have been informed by is in clear view and in the public record. It is difficult to find sometimes, but we spent a lot of time reviewing those records. And what we have concluded from the records that we have examined is that neither Toyota nor the National Highway Safety Administration has identified all the causes of sudden unintended acceleration in Toyota and Lexus models, nor has the auto maker implemented remedies that address the types of complaints that consumers are reporting, and that concerns us greatly.

We are really concerned about the unintended acceleration circumstances that many drivers and witnesses have reported to Toyota in their Lexus models and how they have been handled. They

are rooted in the fact that many of these incidents don't relate to the recalls. In our analysis of about 2,263 complaints, we found that nearly half of those complaints fall outside of any recall whatsoever.

Listening to the experiences of the Smiths of a Lexus that raced down the highway, they are fortunate to be here today. Others are less fortunate. The problem may be rare, but it is serious.

Jeff Pepski of Plymouth, Minnesota, he petitioned NHTSA to investigate the defect in his Lexus. He also experienced unintended acceleration at a highway speed. To try and bring his car under control, he put his foot underneath the pedal to pull back on the pedal. He had carpeted floor mats in his car.

Neither one of those relate back to these recall issues. If it was a sticky pedal, that pedal would have returned with the foot. If it was a floor mat, it would have been crept up and forward, and it would have to have been an all-weather floor mat. He had carpeted floor mats in his vehicle.

Using mounting evidence, including eight NHTSA investigations, six of them at the request of consumers, countless unintended accelerations that were summarily dismissed by Toyota as driver error or floor mats, yielded only a couple of small recalls. It took a horrific crash, one that we all know about, that occurred on August 28, 2009, that killed a CHP officer and his family, that haunting 911 call. It was a watershed moment in

this crisis.

Due to neglect and the failure to address these root causes and by NHTSA's failure to thoroughly investigate some of the consumer claims, despite the steady stream of these claims, it is hard to understand why a CHP officer couldn't bring control to his car. The evidence in NHTSA's public record is ambiguous. If it was a floor mat, Toyota is guilty of failing to acknowledge a very serious and real consequence of pedal entrapment for years.

Since the agency pointed out in 2007 investigation drivers could easily stop a runaway vehicle, the very fact that a mispositioned or incorrect floor mat could even cause this kind of problem, this significant outcome, speaks volumes to the way Toyota has handled this safety issue today. The simplest of problems, a floor mat interference, hasn't been handled appropriately.

If the floor mat didn't confine the pedal, then Toyota and Lexus owners have a real cause for worry that their vehicles have an unidentified defect constituting a severe safety hazard.

Based on our surveillance of the complaint data, which is in the public record, extensive interviews with consumers who have experienced SUA, the benefit of a scientific statistical analysis by the folks at Quality Control Systems, we chose to focus our attention on the electronic throttle control system, which is often called drive-by wire.

Following an SUA incident, consumers frequently report to

Toyota dealers that their field technical specialist could find no vehicle-related problems. Specifically, they report the absence of what is called a diagnostic trouble code, a DTC, an error code.

Toyota has consistently argued that its electronic throttle control design in fail-safe systems were built with multiple redundancies and that the electronic throttle cannot malfunction with its diagnostic system without it catching an error and employing fail-safe modes.

In response to NHTSA, the company flatly rejected the concept of unintended acceleration. In fact, they stated, "With regard to allegations of unintended acceleration, Toyota does not believe that uncontrolled acceleration can occur without the driver applying the accelerator pedal. If an abnormal condition occurs, such as the ETC, the electronic throttle control, sending the signal to a throttle body to open the throttle without applying the accelerator pedal due to a failure of a component or a malfunctioning of the system, or the throttle were to simply open on its own, the system would go into fail-safe mode."

Because drivers' real-world experiences are running counter to what these statements reflect and Toyota's unshakeable belief that their system was infallible, we felt it was important to examine that malfunction detection system and the fail-safe capabilities of Toyota's vehicles with ETC.

As a result, we commissioned some research in this area. The findings are still very preliminary, but they are urgent. The

urgent nature of them has had us working long nights and weekends with Dr. Gilbert to get the preliminary report to this committee.

We have learned from Dr. Gilbert's preliminary study that there are conditions in the Toyota Lexus models tested in which the redundancy of electronic circuits in the electronic throttle control are lost, particularly in what is called the accelerator pedal position sensor. Losing circuit redundancy in the system creates a loss of fail-safe modes that Toyota has programmed, and notably the system will not detect an error. No DTC, no diagnostic trouble codes are found.

Once this happens, you have now loaded the gun. In this State, lacking a redundant fail-safe, various scenarios can be introduced in the electronic control module, the computer, that read wide open throttle without any input from the driver, and again without setting a single diagnostic trouble code, no errors. This should never happen.

Simply increasing voltage to the pedal position sensor while in a compromised state can induce this uncommanded wide-open throttle condition. These scenarios can occur because Toyota's fail-safe parameters are broad. The design allows a wide window of opportunity for problems to occur that are not seen as abnormal by the computer.

Dr. Gilbert's testing demonstrates that vehicles can react to sensor areas in ways that appear consistent with consumer complaints of unintended acceleration. We must emphasize that at

this point it is going to take additional research to make the connection between the two, but his work provides an important baseline for understanding potential electronic root causes of unintended acceleration in Toyota vehicles.

At this point we have simply have two bookends. One end of it is Dr. Gilbert's analysis which finds there are holes in the Toyota system that can allow these failures to occur undetected. On the other hand, we have got reports from folks like the Smiths where clearly their incidents are related to electronic problems, and yet no diagnostic trouble codes are found when their cars are brought in.

Mr. Stupak. I am going to have to ask you to wrap it up.

Mr. Kane. So how do we get here today? We get here today because like many large scale problems, they are complicated, they are multifaceted, they are multi-root caused. There is no one simple solution.

At this point, there is much work to be done, and we believe that both Toyota and National Highway Traffic Safety Administration play a role in how we got here today. But this is squarely Toyota's problem. They created this crisis, and this problem has been festering beneath the surface for years. It took a crisis and it took a crash that captured the Nation's attention to get this to a place where it is today.

Thank you.

[The prepared statement of Mr. Kane follows:]

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Mr. Stupak. Thank you, Mr. Kane.

Mr. Gilbert, your opening statement please. I am going to ask you to turn that mike on and pull it towards you more.

STATEMENT OF DAVID GILBERT

Mr. Gilbert. Chairman Waxman, Subcommittee Chairman Stupak, and the honorable members of the Committee on Energy and Commerce, I thank you for holding this important hearing and allowing me the opportunity to testify before you today.

Like so many of you have expressed, I have nothing against the Toyota Motor Company. They have a fine reputation of building a traditional line of very dependable vehicles. They have been very supportive of the school at which I work. I thought enough of the product brand to put my son in one.

So, with that said, a little bit about myself. I have been a technical educator involved with automotive diagnostics and troubleshooting for almost 30 years. I have been witness to many evolutionary changes over that time.

When I first began teaching at Northeastern Oklahoma A&M College, electronic fuel injection vehicles were relatively new. Over the years, automotive technologies continued to progress, from fundamental mechanical systems to more sophisticated electrical and electronic systems.

Now, as an automotive technical educator at Southern Illinois University in Carbondale, I have found electrical diagnostic skills to be supremely important in diagnosing and repairing modern automobiles and I have spent many hours studying and analyzing new circuits and components.

Based on my knowledge of real world failures in components, I purposely duplicate multiple types of electronic problems in donated vehicles for my students to study and diagnose. This provides my students with an opportunity to analyze wiring schematic, service information, and actively diagnosed problems.

SIU automotive technology graduates have found employment in virtually every aspect of the automotive industry. Students graduating from SIU have the technical skills to work closely with automotive design engineers to ensure reliable vehicle service in real world situations. I believe the exemplary student placement record is a result of the rigor of the program and the emphasis is on problem solving.

It stands to reason then that my daily teaching responsibilities would include application and understanding of electronic throttle control diagnostics. I have the unique perspective in my employment to research and study multiple vehicles and electronic throttle control system diagnostics.

In this preliminary report, my initial findings question the integrity and consistency of Toyota electronic control modules to detect potential electronic throttle control system malfunctions.

The absence of a stored diagnostic trouble code in the vehicle's computer is no guarantee that a problem does not exist. I instruct all my automotive students of this fundamental statement: You can have a code with no problem, and you can have a problem with no code.

My curiosity with Toyota electronic throttle control systems began simply with a search for the truth concerning unintended acceleration. I recently purchased a 2010 Toyota Tundra, and with the growing attention in the media to what seemed to be increasing events of sudden unintended acceleration, I made the decision to investigate the foundation of these claims on my own.

Based on my working knowledge of electronic throttle controls, I did not expect the system to be easily fooled without detecting a circuit fault and setting a diagnostic trouble code. It was late one evening when I made a startling discovery. Electrical circuit faults could be introduced in the electronic throttle control system without setting a code. The discovery opened a window of opportunity within the electronic throttle control system for a potential problem without a code.

Without a code set, the vehicle computer will not logically enter into a fail-safe mode of operation. All vehicle manufacturers have recognized the importance of electronic throttle control systems to perform exactly as they intended.

Since the vehicle computer will only react to defective sensor inputs outside the range of the program limitations if the

circuit is defective, as far as the computer is concerned it must be good. Knowing properly operating electronic throttle control systems and components are vital to safe operation, I proceeded to investigate the problem with much more urgency.

Because of its role to accurately convey the vehicle driver demands for throttle opening, accelerator pedal sensor voltage inputs need to be confirmable by the vehicle's computer as absolutely correct. A complete or partial failure of these electrical circuits, sensors, wiring or actuators in combination with an absence of fail-safe strategies could potentially result in a runaway engine.

The importance of these issues raised in electronic throttle control system fail-safe strategies should not be underestimated. Sudden unintended acceleration of vehicles is a very serious safety concern that needs to be addressed without delay.

Thank you.

[The prepared statement of Mr. Gilbert follows:]

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Mr. Stupak. Thank you, Mr. Gilbert.

That concludes the testimony. We will go to questions. I am going to start with the chairman of the full committee, Mr. Waxman, please.

The Chairman. Thank you very much. I want to thank all the witnesses for your testimony on this first panel.

Toyota has maintained over and over again that it is not the electronics. It is not the electrical system. There are other reasons to explain the sudden unintended acceleration. But the only document that they gave us to address the phenomenon of sudden unintended acceleration in a systematic way was a report from this month done by an outside engineering consulting firm called Exponent. And we have asked people to evaluate Exponent's analysis, and they said it was not a very good analysis. In fact, they thought it failed to follow a scientific -- it failed to stand up to a scientific evaluation. So if Exponent's analysis doesn't adequately explain things, we need to find another explanation.

Now, we are going to hear from Mr. Lentz, and he is going to say to us that we have designed our electronic throttle control systems with multiple fail-safe mechanisms to shut off or reduce engine power in the event of a system failure; we have never found a malfunction that caused unintended acceleration. That is Mr. Lentz's testimony. We are going to hear it in a little bit.

Dr. Gilbert, you have given us a preliminary report. You looked at an alternative explanation to test this hypothesis. Briefly and in layman terms, what did you find, that it is possible to have electronic failure?

Mr. Gilbert. First off, it requires a thorough understanding of the system. The accelerator pedal position sensor input into the PCM is an input directly from the driver. If that circuitry or if that sensor is in error, then it is quite possible that that command that is being given to the vehicle's onboard computer will be accepted as a valid request to open the throttle. As a result of that, that is where I focused my investigation at the very beginning.

The Chairman. Well, they have a fail-safe built in. Are you saying the fail-safe failed?

Mr. Gilbert. The fail-safe will only come into play if the vehicle's onboard computer is able to detect a fault in the circuit. What my preliminary findings have shown is that there is a large amount of leniency in the programming of the fail-safe strategies that will allow certain abnormalities to occur without the vehicle's onboard computer being able to detect that a fault exists.

The Chairman. Is this like an electronic short between two pedal sensors that could override the fail-safe, meaning that a failure would not be read as an error and would not cut off engine power in a sudden unintended acceleration situation?

Mr. Gilbert. It could be interpreted as a short. Yes, it could.

The Chairman. So, in other words, you discovered a scenario where a failure in Toyota's accelerator pedal sensors would not trigger an error code and would not cut off the engine power in the event of a failure. How long did it take you to discover this problem? Did you spend millions of dollars and spend years studying it?

Mr. Gilbert. Well, if I might say, after 30 years of automotive technology teaching and electronic engine controls, I discovered it in about 3-1/2 hours.

The Chairman. Three-and-a-half hours.

Mr. Gilbert. Yes.

The Chairman. And how much money did this take for you to spend to come up with this conclusion?

Mr. Gilbert. With the equipment that I had on hand, basically very little, if anything.

The Chairman. Well, it is really astounding, because what you are describing are findings for us that relate to reports of sudden unintended acceleration, and my understand is that you did this but Toyota did not. Did you report your findings to Toyota and have you heard from the company about your report?

Mr. Gilbert. Yes, sir, I did. I placed a call to Toyota in California through the channels that I knew, and days went by without a reply. Eventually they did call me back and I talked

with I am told some engineers with Toyota, and I told them exactly what I had done and expressed my concern for this type of a problem. And in that conversation I told them, specifically I said what I have done is I have introduced a fault within the electronic system that should have been detected as a circuit fault, set a DTC and reduced engine power.

The Chairman. Can we say with certainty that what you concluded is the absolute cause for the sudden accelerator problem?

Mr. Gilbert. No, sir. What this does is this opens the opportunity to have other problems occur without detection.

The Chairman. So the essential point here is that if Toyota didn't believe this could happen, they didn't look for it. They looked for other explanations. The driver was stepping on the pedal. The floor mat was a problem. The pedal was sticky. They didn't look at the fact that the electronic throttle might have been a problem because they had a fail-safe, but they didn't look to see if the fail-safe failed.

Mr. Chairman, I just think that we need to look at all the explanations and not put blinders in the way, which Toyota apparently did, in trying to assess the reason for serious problem in many of those vehicles.

Thank you very much.

Mr. Stupak. Thank you, Mr. Waxman.

Mr. Barton for questions.

Mr. Barton. Thank you, Mr. Chairman. I want to ask some questions of Mr. Gilbert, but I want to ask Mr. and Mrs. Smith some questions first.

I listened to your testimony or watched it on television in my office, so I have been participating visually in the hearing, even though I haven't been here in person.

Mrs. Smith, when your car was going down the highway, it just kind of went crazy, that is a very non-technical term, and you apparently did everything you could. You tried to put it in neutral, you tried to turn the engine off, you put both feet on the brake, and it just kept going, isn't that right?

Mrs. Rhonda Smith. That is correct.

Mr. Barton. And somehow God intervened and it slowed down and you finally got out of the car. When you called the Toyota people to come, did they take physical possession of your car?

Mrs. Rhonda Smith. We didn't call the Toyota people.

Mr. Barton. You didn't call the Toyota people?

Mrs. Rhonda Smith. No. We just called -- we had AAA.

Mr. Barton. Did anybody inspect the car to see if there were physical cuts in the wiring or somehow the electrical components had been shorted out? Did anybody do that inspection?

Mr. Eddie Smith. May I answer that? I was in my vehicle trying to catch up with her, which was impossible, or just at least to be there. When I got there, she was still sitting in the vehicle. I inspected what a man would normally inspect to see if

there was anything wrong, which includes floor mats, and this was not a floor mat problem.

My answer to your question is we had the car towed to Sevierville and then directly to the Lexus dealer in Kingsport, Tennessee, on a rollback wrecker. No one touched the vehicle until it got to the Lexus dealership. Now, were there wires cut or were there not wires cut?

Mr. Barton. I am not insinuating anything.

Mr. Eddie Smith. We don't know.

Mr. Barton. I will stipulate your testimony is credible, you had a runaway vehicle. It wasn't caused by a floor mat problem. It wasn't caused by you putting your foot on the pedal and going to sleep. Something went wild in your car.

Mr. Eddie Smith. Yes, sir.

Mr. Barton. So what I am trying to figure out is based on what Mr. Gilbert said, he has created some sort of a fault situation in the electronics, and I was just interested if anybody inspected your car after the fact to see if in fact there was a short circuit. And, again, I looked under the hood of a Toyota yesterday, and there is so much stuff under there now, I couldn't work on one if my life depended on it. But I would assume if Toyota actually inspected your car, they would have torn the thing apart trying to find out what the problem is. Did that happen?

Mr. Eddie Smith. Mr. Lamont, he was the field technician for Lexus that was sent to Kingsport. His report back to us was there

was nothing wrong with it.

Mr. Barton. Mr. Chairman, has my time already expired?

Mr. Stupak. Go ahead, Mr. Chairman.

Mr. Barton. Because I see I am minus 4 minutes and 20 seconds.

Mr. Stupak. No, go ahead.

Mr. Barton. Okay. Now I want to go to Mr. Gilbert. The minority has not had an opportunity, the minority staff, to interview you. We only found out you were going to testify late yesterday afternoon. But it appears just looking at your biography that you are very credible and respected in the industry.

If I understood what you said, you decided on your own to look into this, or did Toyota approach you and ask you to look into this?

Mr. Gilbert. I did this on my own.

Mr. Barton. You did this on your own.

Mr. Gilbert. Yes, sir.

Mr. Barton. And you actually went out and bought a car, or you got access to a car?

Mr. Gilbert. I should explain a little bit. Toyota Motor Company has been very generous with vehicle donations. We had a number of Toyota vehicles in the fleet, and they are listed in the report, that were donated for educational purposes, and those were at my disposal. So one of the first vehicles that I looked at was

a 2007 Toyota Tundra, which is similar to the vehicle I purchased. And that was part of my interest.

Mr. Barton. You got access to some Toyotas.

Mr. Gilbert. Absolutely.

Mr. Barton. From what little minority staff and myself have been able to evaluate your testimony, you are saying that there could be some sort of an electronic physical fault in the electronic system, a physical impairment that would cause an electric circuit malfunction? Or are you saying there is a physical defect, an actual impairment in terms of a cut or some sort of a friction point that gets thin and there is a short that occurs because of that?

Mr. Gilbert. First of all, you have to understand a little bit about the fail-safe strategies that they have in place for all accelerator pedal position sensors that vehicle manufacturers put on.

Typically they try to run circuitry that is redundant. In other words, if you look in the preliminary report, you can see an example of this. They run separate -- they actually have two signal circuits within the pedal position sensor itself. Each has their own power supply, each has their own ground circuit, and each has their own signal circuit back. The reason for that is so that one circuit is able to verify the integrity and work with the other.

Do I make myself clear?

Mr. Barton. I took electrical engineering. I made C's, but I did take it.

Mr. Gilbert. Okay, great. It is like having a witness. One signal is a witness for the other to make sure that both are exactly on track so that whatever is being sent to the vehicle's onboard computer is exactly correct.

Okay. With that said, if for some reason that circuit becomes compromised, shorted to power, shorted to ground, or shorted signal-to-signal, then at that point you should be able, within the vehicle's computer, to detect that circuit abnormality and set a DTC. That would allow the vehicle to turn on an MIL, or a malfunction indicator lamp, warn the driver, and --

Mr. Barton. Well, there should be, to be non-technical, if something starts going wrong in the circuitry, there should be a default program that stops the engine.

Mr. Gilbert. Exactly. And that is the other thing that happens.

Mr. Barton. Applies the brake. That is what the Toyota engineers told me. They said if something goes wrong, we give the brake circuit power over the accelerator circuit so that it stops the car. That didn't happen in Mr. and Mrs. Smith's case.

Mr. Gilbert. That is not true with all Toyota vehicles at this point. They are in the process of reprogramming their vehicles' onboard computers to introduce into this this fail-safe characteristic. It is important to note that the fail-safe is

going to be looking at two driver inputs instead of just one from the accelerator pedal. Logically, why would you be driving down the road at 60-65 miles an hour or maybe even faster with your foot on the brake and your foot on the accelerator pedal at the same time?

Mr. Barton. Well, logically you shouldn't. But if something --

Mr. Gilbert. Logically you should not. But if something was to fail, I am looking at intuitively for people driving, when something fails like that and your vehicle starts to accelerate on its own, your first intuitive thing is to step on the brake. So at that point, if we have an incorrect signal going into the vehicle's onboard computer, plus the application of the brake, the PCM would say hey, we have got a problem, shut her down.

Mr. Barton. Right. And that didn't happen in their case. I know my time has about expired. Last question, and hopefully we can really get into this later in detail.

To do the test that you did, did you physically impair the electronics of the cars you tested in any way?

Mr. Gilbert. As far as changing their driving characteristics, no.

Mr. Barton. I am talking about to create these faults or shorts, did you cut anything?

Mr. Gilbert. No, sir. The only thing that we did was we tapped into the accelerator pedal position sensor circuits so we

could monitor voltages and modify those circuits in such a way that we could manipulate, if you would, the signals going to the onboard computers.

Mr. Barton. But in layman's terms, your hypothesis is it is possible there could be a computer malfunction, and it is possible if they don't have this default mechanism that overrides it, in the absence of the computer knowing exactly what to do, it just doesn't do anything --

Mr. Gilbert. It takes the command.

Mr. Barton. -- and the renegade signal runs away?

Mr. Gilbert. It takes the command as one that is valid, and as a result of that it opens the throttle.

Mr. Barton. Thank you, Mr. Chairman.

Mr. Stupak. Thank you, Mr. Barton.

Mrs. Smith, let met ask you this question, if I may. When you were driving down the highway and your vehicle was a runaway vehicle, you said you put your vehicle in reverse?

Mrs. Rhonda Smith. Yes.

Mr. Stupak. And what happened when it went into reverse?

Mrs. Rhonda Smith. Nothing.

Mr. Stupak. Mr. Smith, was the transmission ripped up or anything when you got the vehicle? I mean, if you are going close to 100 miles an hour and you throw your vehicle into reverse, you are going to be dropping your transmission.

Mr. Eddie Smith. My suggestion to her was to put it in

reverse, hold on, and hopefully the transmission will yank loose and you will survive the crash. No, sir, the transmission didn't yank loose.

Mr. Stupak. Let me ask you this then. You also state in your testimony that when the wrecker driver, you were standing back there, you went to put it in neutral.

Mr. Eddie Smith. Yes, sir.

Mr. Stupak. And the vehicle started up?

Mr. Eddie Smith. Yes, sir. It attempted to start with me.

Mr. Stupak. The engine started up.

Mr. Eddie Smith. Yes.

Mr. Stupak. Should it start as a general rule in neutral?

Mr. Eddie Smith. It absolutely will not.

Mr. Stupak. But you didn't have the fob, right?

Mr. Eddie Smith. That is exactly right.

Mr. Stupak. Mrs. Smith, in your testimony you have attached the documents provided to the committee in Exhibit B in which you received a response from Toyota, is that correct?

Mrs. Rhonda Smith. The response from Toyota about the --

Mr. Stupak. Dated December 4, 2006. It was from Toyota sent to you and your husband on your complaint, is that correct?

Mrs. Rhonda Smith. Yes.

Mr. Stupak. And in there do they say if properly maintained the brakes will always override the acceleration?

Mrs. Rhonda Smith. That is what it says.

Mr. Stupak. Okay. And in this case, they talked about your incident. Two totally different systems would have to fail at exactly the same time, the throttle linkage and the brakes, and if properly maintained the brakes would always override the acceleration. Is that what they told you?

Mrs. Rhonda Smith. That is the letter I got. That is what they told me.

Mr. Stupak. All right. Mr. Gilbert, Dr. Gilbert --

Mr. Gilbert. Yes, sir.

Mr. Stupak. You heard the Smiths' testimony. You heard their incident. In order for it to occur as the Smiths said, would two totally different systems have to fail at exactly the same time, the throttle linkage and the brakes? Can you defeat those systems?

Mr. Gilbert. Without actually looking at the transmission and what is allowable under normal conditions, it is possible that at that high a speed, for safety reasons, because obviously if you go down the road and throw your transmission in reverse, it is not a very good thing, that may not have been allowed by the transmission controls.

Mr. Stupak. Okay.

Mr. Gilbert. So it is possible that maybe reverse wasn't a good choice.

Mr. Stupak. Was or was not a good choice?

Mr. Gilbert. Was not. Neutral would be my choice.

Mr. Stupak. But she already did that. That didn't work.

Mr. Gilbert. You know, I don't know now exactly how that could happen.

Mr. Stupak. Without an override.

Mr. Gilbert. Well --

Mr. Stupak. I guess what I am trying to get at, you have I believe they say there are four fail-safe systems here in these Toyotas. So having been a police officer and spent a little time doing this, if I am going 100 miles an hour and I throw something in reverse, my car is coming to a halt. And you are right, there is going to be a pretty good crash, and I hope I can survive. That didn't work here. So obviously something is wrong here.

Mr. Gilbert. I can't answer exactly what happened in her case without --

Mr. Stupak. When your car is on a wrecker and you come to put it until neutral so you can tow it, the engine should not start up and start revving, should it?

Mr. Gilbert. No, sir, it should not.

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Mr. Stupak. Okay. So besides all these electronics, we've just got some basic mechanics, at least in this car, that's not working.

Mr. Kane, you said you went to the public record and looked at NHTSA's public records; and you saw 2,263 incidents, if you will, of sudden unintended acceleration. Half of those could not be explained away or, if my math is pretty good, that's 1,131 cases can't be explained away. So if it's not the pedal sticking, if it's not the mat, what else can it be under this electronic throttle control system? What else is left? Electronics, right?

Mr. Kane. I think that when we look at the complaints and you eliminate the physical impediments that could possibly cause this -- and in this case remember the physical impediments are very limited because we have all electronics controlling these cars -- and you rule out the driver error issue, you have only one thing left, which is the control systems of these cars.

In interviewing many, many consumers and in reviewing incidents of complaints what we are seeing are incidents that cannot be explained by either one of the sticky pedal or by the floor mat recall simply because the drivers and witnesses have often seen this, including folks who have actually brought them to Toyota dealers, and the dealers have witnessed the cars racing

without any driver, without any floor mat interference, and without any sticky pedal.

Mr. Stupak. So for these 1,130-some incidents you have sort of ruled out the physical part.

Mr. Kane. You can never conclusively rule out physical just from all of those complaints, but certainly the evidence suggests very strongly that there is more going on.

Again, one of the things that has happened in this crisis is the consumer voice has been tamped down. You heard from the Smiths. Their story is very similar. What they report they are told is not credible. Consumers' complaints have been used against them, saying it's not credible. These are scenarios where folks get into this, are urgent, and people certainly can make mistakes. But there are too many problems that continue to be reported by consumers that are consistent and can't be explained away as simply driver error or some kind of physical impediment.

Mr. Stupak. Thank you. Thank you for your testimony.

My time has expired. Mr. Burgess for questions.

Dr. Burgess. Thank you, Mr. Chairman.

Again, thank you to the Smiths for sharing your very compelling story with us. I've always wondered what would happen if I inadvertently went into reverse going down the road. I have always been fearful of accidentally doing that. Now to understand that nothing happens, I guess -- I don't know that I am mollified by that.

Mr. Gilbert, let me ask you a question on this. You said that you did these tests that you and Mr. Barton just went through and that you concluded that this may be a very serious problem.

Mr. Gilbert. Yes, sir.

Dr. Burgess. And you called Toyota and they took some time getting back to you. But they did get back to you?

Mr. Gilbert. They got back with me. I explained the situation in detail. I told them even, you know, a resistance value for them to begin testing with. They asked me for that. So I gave it to them. And they said that they would look into it and get back with me. But, of course, I have not heard back from them to date.

Dr. Burgess. So what was the length of time between the moment the light bulb went off above your head and Toyota got back with you about getting more information?

Mr. Gilbert. First off, I wanted to be careful that I wasn't crying wolf; and so I wanted to make sure that what I had found was repeatable. And, of course, I wanted to look into the literature to see how in the world could this possibly fall within the guidelines of setting a DCT.

In addition to that, I wanted to test it on another vehicle. I should say for the record that the Toyota Tundra that we worked on was clearly labeled as a prototype. So, as a result of that, it could be somewhat different. So I tried it on another vehicle and had very similar results. And at that point I became very

alarmed.

Dr. Burgess. So from that point to the point where Toyota gets back with you, what's the time interval? What are we talking about?

Mr. Gilbert. Probably a matter of a few days.

Dr. Burgess. A few days. Were you satisfied with the responds you got from Toyota after talking with them?

Mr. Gilbert. Initially, you know, I expressed a concern. Days went by, and I didn't hear a response back. But then I did, and the gentleman I spoke with at Toyota had set up a conference call with some design people to look into it. He took it very seriously or, you know, expressed his concern.

Dr. Burgess. Well, if you weren't satisfied that things were proceeding with correct dispatch, at any point did you consider calling the Federal agency, the NHTSA folks?

Mr. Gilbert. Actually, almost simultaneously with that, I sent an electronic letter to NHTSA to their hotline.

Dr. Burgess. And --

Mr. Gilbert. And also a written letter.

Dr. Burgess. And --

Mr. Gilbert. And it was registered to --

Dr. Burgess. And their response to you was --

Mr. Gilbert. I have not -- I got a response back on the electronic version. It said, you know, thank you very much for your concern, and we'll look into it.

Dr. Burgess. So, to the best of your knowledge, they've not duplicated your tests at this point? Or --

Mr. Gilbert. I'm not sure what --

Dr. Burgess. Let me ask you a question. We hear this compelling story of this harrowing high-speed chase down the freeway. And what would you expect to see? If you were called on the scene after the car was pulled away to the resale lot, what would you expect to see? Would you expect to see -- like is there like a bundle of wires? Are there cable holders? Would you expect some chafing? Or what would you be looking for to see the real-world -- how the real-world event occurred with the theoretic that you produced in the laboratory?

Mr. Gilbert. If I may, I will use an analogy that I use in class a lot of times. If you're sitting at home watching your television and that television screen blinks, do you take it in for a repair? No, you don't. How come? Well, it just blinked once.

Dr. Burgess. Problem solved.

Mr. Gilbert. However, if you are dealing with electronics on a car and it blinks once, it could be a very serious thing. And in this case it might have blinked.

Dr. Burgess. But I guess, if I understood your answers to Mr. Barton's questions, there would have to be some breach in the insulation, there would have to be two wires coming in contact with each other, or could this all be the fault of the computer

chip and the logic employed therein?

Mr. Gilbert. If you reviewed the service information, you will see that typically, you know, what is our problem? Our problem is is we need to ensure that the integrity of what is being sent to the computer is consistent with what's being done and everybody is on the same page. So the problem lies in where does the problem lie? It can actually be in a number of places. It could be within the sensor itself, the APP sensor itself. It could be in the wiring itself.

Dr. Burgess. Would there be any diagnostic feature where someone could look at that and say, here is a problem with the sensor?

Mr. Gilbert. Possibly.

Dr. Burgess. The problem being a breach in insulation or a --

Mr. Gilbert. It could be, but it may not be an obvious problem. It may be something that is in a microchip somewhere that's malfunctioned. If you will -- if you will look at the report --

Dr. Burgess. Yeah, here is our problem. We just got your stuff really late in this sequence, like 10:13 this morning.

Mr. Gilbert. If you will look, please, on page 5.

Dr. Burgess. Of which document am I looking at?

Mr. Gilbert. At the preliminary report. There should be a picture there similar to this. Can you see it?

Dr. Burgess. We're there.

Mr. Gilbert. If you will look at the printed circuit board, if you will, that is a microchip. Essentially both of those electronic circuits are contained within that small tiny chip. I am told by Toyota -- when I talked with them, I asked a question. I said, are those two separate circuits within that microchip? They assured me that it was. Those are in very --

Dr. Burgess. I'm going to break you off. I have gone too long. The Chairman's going to smack me.

Have you done this on any other make or model of car besides Toyota products?

Mr. Gilbert. As far as this type of test?

Dr. Burgess. Yes.

Mr. Gilbert. Absolutely.

Dr. Burgess. And --

Mr. Gilbert. They are able to detect a circuit abnormality almost instantly.

Dr. Burgess. And what is it about the Toyota design that doesn't allow it to detect that abnormality, the proximity of the two sensors?

Mr. Gilbert. I would say it's not so much the proximity of the two sensors but the strategy that they use to detect circuit faults between the two. These two voltages rise together on a plane as you increase the accelerator pedal opening. As a result of that, if they're somehow interconnected -- because these are

signal circuits. It's all about voltage. And if these two are somehow interconnected through a resistance or a defective chip or chafed wiring a bad connection, you know, I don't know. I need to have a vehicle that's actually failed to investigate further under normal conditions.

Dr. Burgess. And have you had the opportunity to inspect a vehicle like the Smiths that has actually failed?

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

Dr. Burgess. I know our time is up. Let me ask you, Mr. Chairman -- and I realize I am just the acting ranking member, so I don't know the rules very well. But we did just get Mr. Gilbert's testimony very recently. Would it be permissible to ask him to remain with us through not the next panel but the panel after that and perhaps some things will come up when Mr. Lentz testifies that we would like to get clarification and Mr. Gilbert would be able to participate in that? Would that be permissible?

Mr. Stupak. I'm not going to guarantee we're going to call Mr. Gilbert back. I'm not sure what his plans are.

But time is up. We're going to the next one. If Mr. Gilbert wants to stay around, there would be a possibility to recall. That would take unanimous consent of the committee to do that.

Dr. Burgess. Thank you.

Mr. Gilbert. I would be more than happy to stay.

Mr. Stupak. Mr. Dingell for questions.

Mr. Dingell. Mr. Chairman, thank you. No questions at this

time. I would like to express my sympathy and condolences to the panel members who have suffered personal or family losses.

Mr. Stupak. Mr. Gingrey for questions, please.

Dr. Gingrey. Mr. Chairman, thank you, and for Mr. Kane and Mr. Gilbert. But, also, I want to express my gratitude to the Smiths for being strong and brave and coming before the committee and explaining to us the harrowing experience that you went through, Mrs. Smith.

Listening to Mr. Gilbert, it's almost like I am thinking of Marisa Tomei in My Cousin Vinny as you started explaining some of these things to us about what happened to the car. I feel like the judge, actually, listening to that testimony.

Can either of you please explain the differences between the electronic throttle control system used by Toyota and those used by other makes which also have the electronic throttle control system? Is there any unique difference?

Mr. Gilbert. The most unique thing that I detected with the throttle -- the accelerator pedal strategy, if you will, for verification of the two signals is the fact that those two signals rise on the same plane in unison, separated by a given amount of voltage.

I might also add that that difference between those two voltages is very, very small according to their -- is allowed to be almost exactly, if you will, the same voltage. So they only have to be separated by 2/100 of a volt to still be considered by

the vehicle's onboard computer as correct.

With that said, if you look at some other vehicle manufacturers -- and one of the first electronic throttle systems that I investigated was one that was made by Honda, and I actually did some training in Atlanta, Georgia, for the Honda training instructors where I investigated how it worked, fail-safe properties and that sort of thing, and basically gave the Honda instructors some information so that they could use it in their class. As a result of that, I was able to look at a lot of differences between the two.

The thing that's interesting -- and if you will look, there is -- I did include a different -- if you look on page 13, there is, you know, an example of the rising planes for Toyota. And then if you look at the very next page in the upper right-hand corner, that is a typical example of what you might find on a Ford or a Honda or some other manufacturers -- significant difference between that.

Dr. Gingrey. Mr. Gilbert, you are getting me a little bit confused. I was just simply going to ask you to tell me what a ute was.

Let me go ahead. Toyota maintains that their electronic throttle control has built-in redundancies and sensors and that if there was a problem with a sensor, the car's computer would recognize the different signals and it would go into this so-called fail-safe mode.

Mr. Gilbert. Yes, sir.

Dr. Gingrey. Can you identify a point where Toyota should have realized that the problems the cars were experiencing were not mechanical but they were probably electrical? What is the signals that Toyota missed in this instance?

Mr. Gilbert. If I might refer to the Exponent report, one of the things that I thought was interesting about that report was the very thing that I did to introduce a fault within the system was exactly the thing that they left out of their report. They did 19 tests but they did not do a circuit analysis of a short between the two circuits, between the two signal circuits, and that was one of the things that I did very up front was to see if those two circuits could be somehow intertwined or interconnected.

The reason I did that was because they rose on the same plane of voltages. If I would have done that on a Buick or a Honda, it's quite possible that that vehicle's CCM, as soon as it detected any sort of connection and saw those two voltages not operating within their normal plane of operation, it would have set a DTC or a code.

Dr. Gingrey. Either Mr. Kane or Mr. Gilbert, is Exponent involved in your talks with Toyota?

Mr. Kane. I don't believe they were involved. They may have been on the phone. We don't know.

If I can just step back, because I think that we can help answer your question in looking at is the Toyota system different

from other electronic control systems. I think what Dr. Gilbert has identified is in fact, yes, it is. It's different in a couple of key ways.

First of all, it's different in the way it's designed. Its very strategy and how they detect error codes has a wide window of opportunity where errors can be introduced into that wide window without setting an error code. This is in stark contrast to some of the other cars that have been examined.

Now again, the report is preliminary. Dr. Gilbert has been working literally around the clock to help document as much as is possible. What he has found so far is other manufacturers' cars do not have that same strategy. They employ a multitude of other strategies to ensure that a DTC is set so the error code is in fact set under these conditions so you don't, in other words, load that gun. Because what Toyota has in their system is essentially a sensor that goes into nonfail-safe. So whatever happens to that sensor, whatever that sensor reacts to, the computer is just going to do what it says because there is no fail-safe any longer. So there is an outlier.

Mr. Braley. [Presiding.] We have a lot of witnesses on our second panel, and we really need to move as quickly as we can. And you have a right, Mr. Gingrey, to submit additional questions, and we will attempt to get those answered, if you prefer.

The Chair recognizes Mr. Rush at this time for 3 minutes.

Mr. Rush. Thank you, Mr. Chairman.

Mr. Kane, how many years have you been following this area of concern here? How many years have you been following the issues surrounding automobile safety?

Mr. Kane. Well, I started this work back in 1991 at the Center for Auto Safety; and sudden unintended acceleration has been a controversial and difficult issue since the very day I stepped into this problem.

Mr. Rush. As recently as last month, you released a comprehensive report regarding NHTSA's history and pattern of treatment of sudden unintended acceleration. Is that correct?

Mr. Kane. That's accurate.

Mr. Rush. I want to note that your study reached similar conclusions as this committee's preliminary investigation, and that is that NHTSA did not prioritize consumer concerns about certain unintended acceleration and did not conduct thorough investigations into the possible causes of these incidents. Do you concur with that conclusion?

Mr. Kane. Yes, I do agree with that. I think when you look at what happened -- and I don't take lightly my criticism of the agency, because, frankly, I have worked very closely with a number of the folks in the defects office. They work very hard. They have an impossible job. They are always chasing a constantly moving technological environment that is moving at a rapid pace beyond, oftentimes, what their resources allow them to deal with

Mr. Rush. Thank you. And I totally concur with that.

But my question is, under the current authority that NHTSA has, what more could NHTSA have done to protect consumers in this area? And what is it you would like for them to do?

And following that question, are there answers that you would like NHTSA to take but that they may not be legally authorized to do? What can we do as we look forward to reauthorizing NHTSA to making them a leaner, meaner fighting machine for the American consumer?

Mr. Kane. That's a real good question. We've looked at this very closely, and I can say that one of the things that really needs to happen, because we often are evaluating data NHTSA has as well and we can reach some different conclusions -- but at the end of the day, I think they really need to pay close attention and use the tools that are already there.

I think a number of errors were made in the process of these investigations, not so much that the tools weren't available as much as the tools were not employed. When we looked, for example, at surveillance systems like the early warning reporting system that this committee was involved in following Firestone, the use of that data in a meaningful way would have triggered some investigations into the electronic throttle control.

Doing statistical analyses of the complaints like we did with the quality control systems folks, their analyses have given us -- again, the very public data we have access to have given us the tools to look in the right direction. So it's the informed

information we use to then go do our investigations and I think that those tools need to be employed more properly and the consumer voice has to be heard.

This is a very controversial issue. Since day one when I started working on these issues sudden acceleration has consistently been blamed on drivers. We have a report from NHTSA from 1989 that was thrown out in response to a most recent defect petition. That report, frankly, is irrelevant to today's technology in the fact that it really points mostly to driver error issues.

We have to listen to the consumers, what are they saying, and listen carefully. I think what we've heard in our interviews with many consumers who experience firsthand NHTSA investigators, the NHTSA investigators came in with a very preconceived notion that this could not possibly happen. They took Toyota's word for what happened that this can't possibly happen, and that's really what concerns us is that the investigations need to be open-minded without the preconceived notion and the tools need to be in place and, furthermore, the counsel at the agency musts be willing to sink their teeth into complex issues even though they may take time and a great deal of effort to pursue to get to an end.

Mr. Rush. Does NHTSA have the authority, do they have the personnel, do they have the resources to accomplish what you have laid out in your opinion?

Mr. Kane. Clearly, the agency is always the underdog here,

and we certainly -- I can empathize being an underdog in a small company, working against the tide. You have to really use your resources well. And I know the agency struggles with that. They certainly could use the technological expertise or certainly be able to reach out more frequently and have the ability to reach out more frequently to folks who have the expertise like we were able to do as we reached out to Dr. Gilbert and he reached out to us. We can move quickly in doing that without the bureaucracy. I think that the agency would benefit from the ability to do that and particularly in this rapidly moving technological environment today.

Mr. Rush. Do you have any additional comments along those lines?

Mr. Gilbert. I don't believe so.

Mr. Rush. Thank you, Mr. Chairman. I yield back the balance of my time.

Mr. Braley. Thank you.

The Chair now recognizes the gentleman from Oklahoma, Mr. Sullivan, for 5 minutes.

Mr. Sullivan. Thank you, Mr. Chairman.

In Mr. Kane's statement, he states -- this is to you, Mr. Gilbert -- he states that you were commissioned to test Toyota's electronic throttle control system. What direction or parameters were you given and what was the purpose of this study?

Mr. Gilbert. The purpose of the study was to -- and that's

what I outlined in the report. The purpose of the study was to basically contribute to a better understanding of electronic engine controls and the system malfunctions. That was the purpose of that, okay? Because of what I had discovered with the anomalies, if you will, within the fail-safe capabilities of this, this electronic throttle control system, that's where I focused my preliminary report; and so that's what I looked at, was how can a fault occur or how could a fault occur within this system, this particular system that could possibly not be detected by the vehicle's onboard computer and lead to some sort of an unsafe condition?

Mr. Sullivan. And what directions were you given?

Mr. Gilbert. Pretty much freedom to do whatever I needed to do.

Mr. Sullivan. And when did you start your work?

Mr. Gilbert. Good question.

Mr. Kane. I think -- if I could jump in here for a moment, I think Dr. Gilbert and I, we had some communications between him and my engineer in my office over a period of time and he reported his findings. My inclination at that point was immediately that he was on to something interesting; and we said, great, what will it take to get to you investigate this further? And Dr. Gilbert indicated that he needed some additional tools and he needed a little bit of time because he had some vehicles, and we authorized him to do whatever he needed to do to document this as quickly as

possible.

He and I were both very concerned about the public safety aspect of this, which is, frankly, why we have very little parameters. We simply were all putting together a Herculean effort to get some testing done and to document what we could. Because, clearly, there is a diagnostic strategy within Toyota there is appearing to be an outlier.

Now, again, I want to emphasize, do we know that this is the cause of unintended acceleration? The answer is no. We have a bookend here with Dr. Gilbert's work. We have a bookend on this end with consumer complaints, and the interesting part is that this matches up against what Dr. Gilbert is telling us.

Are there other possibilities? Absolutely. We have always -- from the very beginning, we have maintained that this problem is multifaceted and multi-root cause. There is no one singular problem here. But what Dr. Gilbert is pointing out to us is informing us to look at the next steps.

Mr. Gilbert. If I could expand on that a little bit. You know, my curiosity was first piqued by watching the news media and the -- you know the publicity that was going on about that. I first called Mr. Kane -- and I believe it was November something. It was just a casual conversation, some questions about it. And, you know, it kind of piqued my interest; and that's why I went ahead and looked into it on my own. There was no agreement between us to do anything. I just simply investigated.

When I found what I did initially, the first thing I did was I drafted a letter to NHTSA. I contacted Toyota, and then I also contacted Mr. Kane to tell him of what I had found. Literally within seconds I had an e-mail response back from Mr. Kane, and that's where it proceeded from then. And he was willing to give us whatever we needed equipment-wise and that sort of thing to jump ahead, if you will, into investigating that. So that's what I did. With approval of the university, we proceeded into our research.

Mr. Sullivan. Well, Mr. Gilbert, were you told when you began your work that this may be used in preparation for litigation?

Mr. Gilbert. You know, I assumed that that was where it could go, okay? My main search was for the truth. If you would have said that I would be sitting here today, I would have been really floored. But, you know, my main purpose was to get to the bottom of this, and that's where I would like to be. I would like to take this research a little farther.

Mr. Sullivan. How many vehicles or how many brands or manufacturers did you do similar tests on?

Mr. Gilbert. Have we done? Currently, today, within this research -- and, of course, it's not included in this report -- but we've simply -- you know, we've looked into a Buick Lucerne that we have. We've looked into a Ford F-150. We also have a Chrysler product that we had planned on using. We just simply ran

out of time to be able to do the time for the exhaustive testing that we need to be able to.

Because other systems are different, we have to approach their strategies from a different direction. None were quite as easy as the Toyota to crack. And as a matter of fact, the Buick Lucerne, we've not been able to do it, anything close to what we've done with this.

Mr. Sullivan. Mr. Gilbert, how does Toyota fix the problem you demonstrated in your study?

Mr. Gilbert. How would they fix it? My first recommendation would be the brake pedal fail-safe, where if the accelerator input was high along with the brake pedal application that the vehicle would go back to the fail-safe mode, set an DTC, and reduce power. That's the first thing that needs to be done. They need to be reprogrammed. Currently, it's my understanding that some vehicles have that; some do not. Some are scheduled to be reprogrammed; some are not.

The next thing that needs to happen is they need to re-evaluate their fault detection strategy in this area. They either need to tighten their parameters, change the strategy altogether, or do something to ensure that the type of problem that I have been able to introduce into the system is detectable. By detection, that means that then the fail-safe reduced engine power and that sort of thing is now in play.

Mr. Stupak. [Presiding.] The gentleman's time has expired.

Ms. DeGette for questions, please.

Ms. DeGette. Thank you, Mr. Chairman.

Mr. and Mrs. Smith, I really want to thank you for coming today. I think the thing that has got to be the most frustrating is that this horrible thing happened to you and then nobody believed you.

We had the same situation in Colorado around the same time where we had a family -- a mother of young children. She was driving a Prius, and this happened to her on the highway in the mountains and went -- and she finally she did what you did, Mrs. Smith. She went off the highway and drove into some trees so that she wouldn't hurt anybody else. Luckily, she lived.

But the same thing happened. The Toyota lawyer sent them letters saying, obviously, it was some problem with your maintaining the car, because there was nothing wrong.

So thank you for -- it's hard for you to sit here and say this and for people to deny your credibility. So I just want to say that.

I have a couple of questions for you, Mr. Gilbert. You heard the Smiths talk today about what happened, and I'm sure you have read their testimony as well. Is what Mrs. Smith accounts as happening with her car consistent with a floor mat failure in your experience?

Mr. Gilbert. I think we need to be perfectly clear in that floor pedal or accelerator pedal entrapment with a floor mat is

considerably different than what I've --

Ms. DeGette. So your answer would be no?

Mr. Gilbert. Restate the question, please.

Ms. DeGette. Is what she testified happen to her car consistent with a floor mat problem?

Mr. Gilbert. It's more consistent --

Ms. DeGette. Is it consistent with a floor mat problem? Yes or no, if you can.

Mr. Gilbert. I would say no.

Ms. DeGette. Would her problem be consistent with an accelerator sticking?

Mr. Gilbert. Sticking? It doesn't sound like that to me.

Ms. DeGette. Okay. Would it be a problem with the brake, some kind of a worn brakes or something like that?

Mr. Gilbert. I might address the brake statement a little bit further.

Ms. DeGette. Sir, I apologize. If you can make it short, because I only have 5 minutes. Thanks.

Mr. Gilbert. If the brakes are applied while the vehicle is going down the highway and the throttle suddenly snaps to wide open throttle, you have two things to overcome. Not only do you have the kinetic energy of the vehicle moving forward that you have to got to bring to a halt, but you also have the full power output of the engine. At that point, the brakes are going do get very hot very quick, and they're going to start to fade fast.

Ms. DeGette. But would the original problem be caused by a brake problem of the acceleration that Mrs. Smith experienced?

Mr. Gilbert. No. Brakes don't have anything to do with the acceleration.

Ms. DeGette. Right. Okay.

Now here is something you might not know. Just today, Toyota's lawyers told the committee staff that Toyota was able to duplicate your tests. The Toyota lawyers also said that they had the same outcome that you had in your test but with no error codes. But they also said, the conditions that you imposed on your testing were "sabotaged" because you manipulated the electronics to make that happen. And they claimed that this could happen if you "sabotage" any car. Can you talk very quickly --

No, let me ask you this. Could what you did to those Toyotas get that outcome happen to Toyotas in real-world conditions?

Mr. Gilbert. In my opinion, yes.

Ms. DeGette. Okay. And now certainly most of us aren't engineers. I never even got a C in any kind of engineering class, because I never took one. Can you explain the types of conditions that might cause these results in the real world?

Mr. Gilbert. It could be an anomaly in the accelerator pedal sensor itself. It could be a problem within the wiring harness. It could be a problem within the vehicle's onboard controller as well. The important question to ask here is, if I am able to interconnect these two signals, it is possible that accelerator

pedal position sensors could have been mismanufactured from the very day that they were built. The fail-safe detection capabilities of the onboard computer are going to accept that as valid. So it's possible that mismanufacturing of some component along the line has somehow compromised the safety. I don't know exactly.

Ms. DeGette. So it could happen in the real world?

Mr. Gilbert. Absolutely.

Ms. DeGette. And is it significant to you that Toyota's independent consultant confirmed your tests? Does that make a difference to you?

Mr. Gilbert. They said that they were able to duplicate my conditions without setting a DTC.

Ms. DeGette. Yep.

Mr. Gilbert. I think that's significant. They should look at that and say, why didn't it?

Ms. DeGette. One last question, why do you think Toyota wasn't able to figure this out previously?

Mr. Gilbert. Maybe they didn't ask the right questions.

Ms. DeGette. Thank you.

Mr. Stupak. Mr. Doyle for questions.

Mr. Doyle. Yes. Mr. Chairman, I will be brief.

To the Smiths, thank you so much for your testimony today. We appreciate you being here.

Mr. Gilbert and Mr. Kane, you said Toyota will be introducing

a software fix or some sort of patch to institute a fail-safe where, if the accelerator and brakes are both on, the brakes win. But you also said that not all cars could be updated with this patch. What do you think Toyota should do for the cars that are on the road that can't be easily updated? I mean, is this something where NHTSA should be called for some sort of a hardware fix or to swap the CPU? How do we deal with the cars that aren't easily addressed with this software patch?

Mr. Kane. I think that that raises the question from the very get-go, what are the technological problems that give rise to that? I mean, frankly, these vehicles have substantially similar electronic throttle control systems going back as far as 2002, and I have not heard that there is a technological obstacle to installing a brake to override. It is something we have advocated independently of Dr. Gilbert in his work. We believe that it is a critical safety omission on behalf of Toyota that has led us in part to where we are today simply because there is no driver control in the event of a runaway engine. Dr. Gilbert and I have talked about this subsequently, and it's something that has to happen. The technological obstacles need to be looked at closely to see if they're legitimate.

Mr. Doyle. Do you have anything to add to that, Dr. Gilbert?

Mr. Gilbert. I think it's important to note that the very initial problem needs to also be addressed in that the fail-safe detection capabilities of this electronic throttle control system

apparently fall short of where they need to be. The fail-safe or the brake pedal override, if you will, is just an added measure of safety in the event that if for some reason this circuit was not detected as being defective then at least the driver has some second course of action that should force it into a fail-safe mode. That's exactly what it would want. It may be possible that other vehicle manufacturers may want to address this same situation as well, and I'm told that there is a number of them that do.

Mr. Doyle. Thank you.

Mr. Chairman, I will yield back.

Mr. Stupak. Thank you, Mr. Doyle.

Mrs. Christensen for questions, please.

Mrs. Christensen. Thank you, Mr. Chairman; and, again, I thank all of you for being here, particularly the Smiths.

Mr. and Mrs. Smith, I am not clear. In light of the recalls that have happened now, have you been contacted by your dealer, the district field technician, NHTSA, or anyone to rectify the problems that you have gone through over the last couple of years?

Mrs. Rhonda Smith. Have I been contacted by anyone?

Mrs. Christensen. Yes. You got no response from your dealer, from the technician, and from NHTSA over the last few years, is that correct?

Mrs. Rhonda Smith. That's correct, yes.

Mrs. Christensen. In light of the recalls, has anyone come

back and contacted you?

Mrs. Rhonda Smith. No, ma'am.

Mrs. Christensen. And we've been told I think that in case of unintended acceleration, what should happen is to apply the brake, put the car in neutral, and bring it to a safe stop. Isn't that what you did? Would that be --

Mrs. Rhonda Smith. I tried.

Mrs. Christensen. And it did not stop the car?

Mrs. Rhonda Smith. It did not. But also I think there is something I didn't mention. Of course, you all on the panel know about my letter. But this car also, something electronic, it was doing the revving up and down, also, and I think other people in this room did not know that. But my car, even when it was parked on the side of the road and I was trying to push that button to stop it, it was still revving up and down. So that was another little extra nice thing there about the electronics.

Mrs. Christensen. I did read that in your testimony.

I had a question about the break override, but I think that that was answered.

Mr. Kane, you are laying most of the blame on Toyota; and I would like to know, in your experience, judging -- looking at your experience with Toyota and their response or their lack of response, what is it that you have generally seen in your work with other manufacturers? Is this the usual response, the way that it --

Mr. Kane. That's a good question. Certainly -- we've certainly seen other manufacturers try and push these safety measures down.

I think what's particularly troubling is that Toyota holds a special place here in the United States amongst owners. As you know, we've heard from many of the members here that Toyota is a lauded brand. People look at Toyota as being the most reliable, as a company that we can all stand behind and that we know that their products are reliable.

I think what is the crisis that we're in today is in part because that vaunted image that they've created is not meshing with their response and certainly not the response that they've given to consumers. And that's particularly troubling, and I think that's why we've seen them fall so hard and so fast.

Mrs. Christensen. But the answer to your question, though, I think is -- because while Toyota's on the spot today, your response from other manufacturers has been similar?

Mr. Kane. Unfortunately, in crises, we see manufacturers act in ways that often ignore some of the public safety issues that need to be up front. That's been my experience.

Mrs. Christensen. Okay. Unless Dr. Gilbert has anything to comment on that question, I have no further --

Mr. Gilbert. I would like to comment on a statement that Mrs. Smith has made. She mentions the fact of the engine revving, okay. One of the things that the onboard computer will do is, if

the RPMs of an engine get to a certain limit, in order to keep from destroying the engine the rev limiter will kick in. And what that will do is it will give a very pronounced audible revving of the engine. This is consistent with a situation where wide-open throttle exists.

Mrs. Christensen. Thank you for that clarification.

Mr. Chairman, I yield back.

Mr. Stupak. Thank you.

Mr. Braley for questions, please.

Mr. Braley. Thank you, Mr. Chairman.

Mr. and Mrs. Smith, you graciously accepted the responsibility earlier in your testimony of speaking on behalf of the people who aren't alive to tell their stories of what happened with the sudden acceleration that they did not anticipate, and I want to thank you on behalf of all those people for having the courage to come tell your story.

But as you have sat here throughout this hearing, I am struck by the fact that you both seem like reasonable, intelligent, articulate, sophisticated people, and yet every time you have raised a concern about this problem, people treated you like you were crazy. So speaking for all those consumers who have gone through similar frustrations, I want you to tell this committee what it's like to know that you're not crazy, that you know what happened and have nobody in a position of authority who is willing to do something about it.

Mrs. Rhonda Smith. Well, it made us very, very angry. I tried and my husband tried so hard to send it out to the media, and I knew no one would listen to me as a little person or to my husband. So I knew from the very first. And so I even -- you don't know some of the movie stars and Oprah and all those big people. I thought if I can just get them -- if I can just get them to get on to this, because I knew I couldn't fight, we could not fight the a big company like that. But we got no response from that.

But to be treated like we were, there are no words to express the anger that was there. I mean, to even get slapped in the face time after time and to literally -- and to be literally be called liars, which we are not. But what are you going to do? We did all we could do.

Mr. Braley. And I congratulate you for that. I think you should have called Joe Pesci and Marisa Tomei.

I want to talk about My Cousin Vinny with Mr. Kane and Mr. Gilbert. It is probably one of the best movies on trial advocacy and engineering I have ever seen. And one of the scenes, a classic scene in that movie is when they are sitting in this rundown hotel room arguing over who is responsible for a leaking faucet. And Marisa Tomei, Mona Lisa Vito, the character in that movie, said to Joe Pesci that she turned off the faucet. He said, are you sure? She said, I am sure. And he said, are you sure you are sure? And she said, I am.

One of the reasons that scene is so important is because I have right here the reference manual on scientific evidence that is used in Federal courtrooms all over the country to deal with scientific evidence and engineering, and there is a specific chapter in here called Success and Failure in Engineering that gets right to the heart of that faucet scene. It talks about the role of failure in engineering design.

Failure is a central idea in engineering. In fact, one definition of engineering might be that it is the avoidance of failure. When a device, machine, or structure is designed by an engineer, every way in which it might credibly fail must be anticipated to ensure that it is designed to function properly. But, gentlemen, if you completely exclude from your analysis one potential problem that might be contributing to sudden unanticipated acceleration, you're not doing your job as an engineer, are you?

Mr. Gilbert. Absolutely.

Mr. Braley. And one of the things that we know is that -- and this is something that is true in a lot of disciplines, not just engineering. But another part of this manual says, one of the apparent paradoxes of science and engineering is that more is learned from failures than from successes. Isn't that true in the fields that both of you work in, that it's the rigor of a discipline of repeated testing and ruling out of potential causes that leads you to the ultimate truth of what's causing a problem?

Mr. Gilbert. Yes, sir.

Mr. Braley. And this same manual goes on and talks about how successful designs can lead to failure. And we've seen that, where a product which is used on multiple applications, hundreds and thousands, maybe millions of times does not encounter an outside event like the ones you've been talking about that will trigger a catastrophic incident that can lead to the sudden death of people like we've heard about at this hearing. And it's not that these companies are bad or are intending to build defects into the product. It's just sometimes the rigorous application of design analysis and failure analysis has not been applied to correct a problem. Do you agree with that?

Mr. Kane. I do.

Mr. Gilbert. Yes.

Mr. Braley. Mr. Chairman, I think that's been one of the problems of getting to the core of this problem all along is that we've been looking for mechanical failures that are a cheap, easy fix and haven't done the type of rigorous failure analysis to get to the heart of the problem.

And I will yield back.

Mr. Stupak. Thank you, Mr. Braley.

That concludes questions by all members of the subcommittee. Oh, Ms. Schakowsky. Sorry. I didn't see you there, Jan. You are recognized for 5 minutes.

Ms. Schakowsky. Thank you.

Mr. Gilbert and Mr. Kane, you have both done extensive research on the electronic throttle systems of Toyota. Have you done any similar research on other brands? Do you intend to do so? Do you think that the problem that you found in Toyota might be common to other vehicles or present in other vehicles?

Mr. Gilbert. It is possible that there may be other vehicles that may use a strategy that's not ironclad as well. You know, that requires a much more in-depth investigation of those systems as well. You've got to remember that in order for you to be able to look into what it takes to set a diagnostic trouble code or a fault in this system you first have to identify what the parameters are for the vehicle's manufacturers to allow such a thing to occur. Most of them are very, very tight.

When I first started into this, I had a preconceived notion that it was probably going to be an impossible task. So you can imagine my surprise when I found that it was as straightforward as it was to be able to introduce a fault.

Ms. Schakowsky. Mr. Kane?

Mr. Kane. Yes. I think generally looking at -- as someone who does defect detection work and surveillance on problems in the field and using the various data sets, there clearly could be problems with other manufacturers. But what's interesting in looking at these problems is that we're now at a place where our regulations are still very behind in the technology. The technology that's in these cars and controls these cars -- I mean,

the fact that we don't have requirements, for example, for a brake to idle override on electronics despite the recognition of the problems that can occur may be some shortcomings that could address that on a more broad basis.

Ms. Schakowsky. Thank you.

I wanted to ask the Smiths a question and add my thanks to both of you for being here. You absolutely did the right thing, and you went to Toyota, and you went to NHTSA. It sounds like you went to Oprah. But you stated that prior to inspecting your vehicle, NHTSA seemed to have already decided that the event you experienced was caused by a floor mat trapping of your accelerator pedal. And you must have been surprised. You must not have been surprised when NHTSA's incident report blamed the floor mats for your harrowing experience. Do you think that it was the floor mat that caused the unintended acceleration?

Mrs. Rhonda Smith. No.

Ms. Schakowsky. And the committee received a copy of a vehicle and incident site inspection memorandum for your vehicle drafted by Scott Yon, an investigator with NHTSA on May 2nd, 2007. And Mr. Smith, halfway through the first paragraph, states -- NHTSA states, "No electronic interrogation of any vehicle system was performed." That means that NHTSA decided that it did not need to investigate whether electronics played a role in your wife's experience. How do you feel about NHTSA's decision not to even inspect your car's electronic system?

Mrs. Rhonda Smith. Well, it was when I received that in the mail, I called Mr. Yon and questioned him about that. Because I told him all along, even when he came down, I said it was not my floor mats. My floor mats did not make all those other things happen to my car. They couldn't have. And I told him that something else needed to be checked out. The electronics needed to be checked out on that car.

And I have a note -- I don't know if it's on that original one there -- but I have a note at the top that he told me that further investigation was going to be done on that type of vehicle, that it was an ongoing investigation.

Ms. Schakowsky. And did you receive any further notification about what happened? Or did you inquire about --

Mrs. Rhonda Smith. I received nothing else. And also at that point he said that he was being taken off of the investigation, and I thought that was rather strange.

Ms. Schakowsky. Thank you.

Mrs. Rhonda Smith. So I never -- no, I just gave up on it then.

Ms. Schakowsky. Thank you, all of you.

I yield back, Mr. Chairman.

Mr. Stupak. That now concludes questions from members of the subcommittee. There are a number of members here from the full committee, as I recognized earlier. They will be allowed to ask questions.

Mr. Buyer, questions, please, 5 minutes.

Mr. Buyer. Thank you very much.

For the purpose of open disclosure, just down the road from where I live is Lafayette, Indiana. Subaru makes the Toyota Camry there in Lafayette.

I also personally know a lot of people who work on the line, and they are very sharp. They take a lot of pride in what they do.

And I would also recognize -- I don't care whether it's Toyota or any other company out there -- if, in fact, they've done things to cover up an error, I assure you that their brand is blemished, and it requires good-faith commitments on their part to then restore trust and confidence in people to buy that product. So I can recognize that Toyota has to get off their heels and on their toes to do this.

At the same time, with regard to open disclosure, I am uncomfortable here today, Mr. Chairman, with regard to some of the testimony. The testimony -- the reason I say that is that one of the nice things about our advocacy system in America is that the truth will always come out someway, somehow and that we also have to make sure that the advocacy is pure.

So, Mr. Kane, I am uncomfortable with regard to your advocacy here today. I just want you to know that. And also that of Mr. Gilbert.

Mr. Kane, your firm, Safety Research & Strategies, has

released a report on February 5 detailing a number of allegations against Toyota related to sudden unintended acceleration. You noted in your report that it was not funded by attorneys, consumers, advocacy groups, or experts interested in the subject matter. It was not produced for litigation against Toyota Motor Company. You would nonetheless like to acknowledge five attorneys who sponsored some of your research into sudden unintended acceleration in Toyota vehicles. You then go on to list the five firms.

What does the word "sponsored" mean?

Mr. Kane. Let me tell you that --

Mr. Buyer. No, what does the word "sponsored" mean?

Mr. Kane. The word "sponsor" means we have done work for these folks to represent the victims --

Mr. Buyer. How much have you been paid by these firms?

Mr. Kane. Frankly, I have not a lot of calculation on that, but what I can tell you is --

Mr. Buyer. Is it $1 million?

Mr. Kane. No, sir.

Mr. Buyer. Is it $500,000?

Mr. Kane. It is far less than it cost me to be here today.

Mr. Buyer. Is it $100,000?

Mr. Kane. No, sir.

Mr. Buyer. Then what is it?

Mr. Kane. I don't know the answer.

Mr. Buyer. You don't know how much lawyers are paying you with regard to your report? Of these five attorneys who have sponsored your research, how many of these law firms right now are suing Toyota?

Mr. Kane. I believe every one of them. They represent the voice of a victim in the problem that we are dealing with today. We are informed by those victims.

Mr. Buyer. So you are acknowledging that you are being sponsored by five litigation trial lawyer firms of whom are suing Toyota, is that correct?

Mr. Kane. If your intimation is --

Mr. Buyer. No, that is not my intimation. Is that correct?

Mr. Kane. It is correct that we have worked for those --

Mr. Buyer. Is it correct?

Mr. Kane. If your intimation is that our advocacy is somehow informed by --

Mr. Stupak. Okay. Okay. Hold on here. Hold on. Buyer, hold on. You can't be talking over each other.

Mr. Buyer. I directed him to answer a simple question, Mr. Chairman.

Mr. Stupak. Then tell him he is not responsive.

Mr. Buyer. You are nonresponsive.

Mr. Kane. I am responsive to your question, Congressman. I have answered your question.

Mr. Buyer. Do you acknowledge --

Mr. Stupak. Mr. Kane.

Mr. Buyer. Do you acknowledge that the five law firms that have sponsored you are involved in litigation against Toyota?

Mr. Kane. That is accurate.

Mr. Buyer. Thank you. Thank you.

Now with regard to Mr. Gilbert, I don't understand what the word -- now we've kind of dissected what the word "sponsored" means. Sponsored means being paid. What does the word "commissioned" mean? Are you being -- when Mr. Kane commissions to you do a report, are you doing it for free? Or are you being paid?

Mr. Gilbert. I am being paid.

Mr. Buyer. All right. How much money are you being paid for this report by Mr. Kane? Is it more than $100,000?

Mr. Gilbert. No.

Mr. Buyer. How much money are you being paid by Mr. Kane?

Mr. Gilbert. Whatever he is paying me, it's not enough, trust me.

Mr. Buyer. Mr. Kane, how much have you paid?

Mr. Kane. I can answer that question if you would like.

Mr. Buyer. Mr. Kane, how much have you paid?

Mr. Kane. I have paid Dr. Gilbert $1,800, and I have sent him some technical equipment that cost me approximately $4,000, sir.

Mr. Buyer. How much more money is to be paid?

Mr. Kane. We have entered an agreement where as his time he will be paid $150 per hour for his service moving forward.

Mr. Buyer. Moving forward. So what we have here is you are being sponsored by five law firms of whom are suing Toyota and you have now hired someone to prepare a report that could also be used in litigation later on. Now I am getting a better picture.

Now with regard to this question about manipulation, Mr. Gilbert, in order for you -- I don't understand what the word "manipulation" means. In order for you to -- the vehicles that you use, are these vehicles that had an acceleration problem or they did not?

Mr. Gilbert. No, sir. They did not. These were normally --

Mr. Buyer. Did you cut three wires in order to manipulate this?

Mr. Gilbert. No, sir. The circuit remained intact from the accelerator pedal to the ACM. The only thing that I did -- because of safety purposes -- is I tapped into those circuits so I could watch them with an oscilloscope and understand what was going on.

I might back up and say that I had the decision on whether to push the send button to NHTSA. I had the decision on my own to contact Toyota. I had the decision on my own to contact Mr. Kane. To be quite honest, at the moment that I discovered this, I was sick at my stomach.

Mr. Buyer. Mr. Chairman, I think what you're doing here is

the right thing. We will find the problem. There will be a lot of research done out here. I don't think this is the -- this is just the starting point to find the problem. And I think America, Mr. Chairman, has learned that whenever -- you know, from the Dateline incident whereby they re-created the staged crash for the fuel tank, that when you manipulate to exaggerate and show there is a problem, that doesn't work very well. But I believe that smart minds are actually going to resolve this problem, Mr. Chairman. I appreciate you holding this hearing.

Mr. Stupak. As the ranking member said, we've looked at over 100,000 pages of documents. We will continue to have further hearings in this area. This is probably the first of a number of hearings we will have.

RPTS COCHRAN

DCMN BURRELL

[2:00 p.m.]

Mr. Stupak. Next, Mr. Gonzalez is a member of the committee. Your turn for questions, please.

Mr. Gonzalez. Mr. Chairman, thank you very for this opportunity.

I guess I need to start off by just making an observation that I think you can be a Member of Congress, you can be a plaintiff's lawyer and you can be a manufacturer, and we would all still have safety first. So I will ask Mr. Kane and Mr. Gilbert, the fact that you have these relationships as has been explained, has that altered or modified any of your testimony here today?

Mr. Kane?

Mr. Kane. No, it has not. We prepared our report at our own --

Mr. Gonzalez. Yes or no would be fine. Mr. Gilbert?

Mr. Gilbert. No, it has not.

Mr. Gonzalez. The Toyota Tundra plant located in San Antonio, Texas, is not in my district. I represent half the city. But I would have been really proud to have had that particular enterprise in my district because of the type of corporate citizen that Toyota has been in our area, the opportunities that it has presented. But that doesn't mean that any individual or

corporation is not going to be held to the same standard, whether they are in your district or not.

Now, I do have a question. Mr. Kane, you would attribute sudden unintended acceleration to floor mats in certain instances, would you not?

Mr. Kane. Absolutely. As we have said in our report, we agree that that can happen.

Mr. Gonzalez. And Toyota has addressed that?

Mr. Kane. Very late. Yes, they have lately.

Mr. Gonzalez. They have addressed it. It is not an existing condition that you should be concerned about.

Mr. Kane. It is a problem they have experienced for years and they have not addressed it in all models.

Mr. Gonzalez. I do wish we were in a courtroom, because I would have the help of a judge that you would answer the questions succinctly without any editorializing. Unintended acceleration could also be caused by a sticky accelerator. You don't dispute that, do you?

Mr. Kane. Yes, I do.

Mr. Gonzalez. You do dispute that the present corrective action being taken by Toyota on the sticky acceleration pedal is not --

Mr. Kane. It does not result in unintended acceleration as we have looked at unintended acceleration.

Mr. Gonzalez. Well, it is going to be how you are going to

define it, if it is going to be sudden, if it is going to be constant and so on. But you are saying it has nothing to do -- you are on the record today saying that a sticky pedal has nothing to do with unintended acceleration or maintaining acceleration at a certain point?

Mr. Kane. Maintaining at one point is different. It is not sudden unintended acceleration, sir.

Mr. Gonzalez. And we can get into that debate. But we have confused all of that, if you haven't noticed, but no one, and I am hoping maybe other panels and other committees will go into the different distinctions of when you have hit the accelerator and it gets stuck as opposed to when you don't even touch it and the car goes out of control. These are huge differences which we are not even touching on, is my understanding.

So I gather what you are saying is what hasn't been tested might be a third culprit, and that is going to be the electronic system. Is that what you are saying?

Mr. Kane. Yes, sir.

Mr. Gonzalez. But at this point you would not go on record and say that would be the only cause?

Mr. Kane. No, sir.

Mr. Gonzalez. Mr. Gilbert, have you ever heard of Leonard Evans?

Mr. Gilbert. No, sir.

Mr. Gonzalez. I hadn't either, to be honest with you. But

he was on Linda Wertheimer's recent NPR program, and this is what he said. And I always believed this, and I think Click and Clack agree, the weakest brakes are stronger than the strongest engine. All right?

So what happened to the Smiths, which wasn't their fault and totally out of control, it shouldn't happen to anyone. But if you applied the brakes with all the humanly possible pressure that you have, should it have stopped the car? Should it have brought the car to slowing it down or stopping it? And, if not, why? What would cause someone to be able to put that much pressure on that pedal and not have any result what ever?

Mr. Gilbert. First off, let's ask the question, let's say that the vehicle was at speed, 60 miles per hour. It took a certain amount of horsepower to get there, would you agree?

Mr. Gonzalez. Sure.

Mr. Gilbert. Most of us don't drive our car at wide open throttle. Most of the time when you are driving down the interstate you are looking at a partial throttle opening at best. If you were at speed and the throttle snapped full open, you have two things to overcome: You have the kinetic energy that was built up in that vehicle to get there, which took a lot of power. You also have now the full amount of the engine to try to overcome.

So, at that point, and I believe that there has been some studies done about braking distances, even if your brakes were

sufficient to bring that car under control, it is going to extend the stopping distance considerably. And when you do that, the brakes start to overheat. The hotter they get, the less effective they become. Essentially that is all a brake system does. It takes that energy that you stored in that car and it changes it into heat as you apply the brakes.

Mr. Gonzalez. So that may explain what happened, but not necessarily that the brake computer malfunctioned at the same time that your accelerator computer. Because you have two different computers in that model, don't you?

Mr. Gilbert. Would you explain that, please?

Mr. Gonzalez. My understanding is that you have two separate computers in that model car. Now, I may be wrong, and I don't know that they had brake override or whatever.

Mr. Gilbert. Your brake system is still hydraulic. Excuse me. Your brake system is still hydraulic. Your brake system is still hydraulic. The electronics that we put in place on the brake systems are there primarily for analog brake purposes. They are for safety, so that you can steer without losing control of the vehicle. So it is possible that you could lose your anti-brake capability, but still have full brake application because of the simple hydraulics of the system. That is the way it works.

Mr. Gonzalez. The brakes should work. I am over my time, Mr. Chairman. Thank you for being so generous.

Mr. Stupak. Mr. Terry for questions, please.

Mr. Terry. No questions.

Mr. Stupak. No questions for Mr. Terry.

Mr. Ross, is he still here or did he leave?

Well, that concludes then all of the questions of everybody on this panel. I want to thank the witnesses, the Smiths, Mr. Kane, Dr. Gilbert. You are welcome to stay for the rest of the hearing if you would like.

Mr. Burgess wants to ask one more question. I know better, because Mr. Burgess never asks one question. We will try it, Mike.

Dr. Burgess. Mr. Gilbert, if I could just ask you to address this, what happened when that car was put into reverse? Why did that not seize up the transmission and drop it on the road?

Mr. Gilbert. Some transmissions are designed -- and, you know, you are asking me to speculate here a little bit, because --

Dr. Burgess. Well, let me ask you this. Is there anything that you have found that would have prevented the vehicle from engaging the reverse gear? Does it have something that stops it from going into reverse?

Mr. Gilbert. Hydraulically speaking, and you need to speak to someone who works more on transmissions, I have not been into transmissions for quite some time, there are a number of conditions where you don't want to go into reverse. So it is possible that hydraulically or electronically it was not capable

of going into reverse at speed like that.

Dr. Burgess. Then what about the on-off switch, the button in that car?

Mr. Gilbert. I can't address that.

Dr. Burgess. Thank you.

Mr. Stupak. That now will conclude the questions for this panel. Thank you again for being here.

It has been a long hearing so far. We have two more panels. Let's go in recess until 2:15. We will be back here in 7 minutes. Let's give everyone a chance to stretch their legs. We are in recess.

[Recess.]

Mr. Stupak. The committee will now come back to order. We will resume. I ask members and members of the media to take their position, please, so we can continue.

On our second panel we have Mr. James E. Lentz, President and Chief Operating Officer of Toyota Motor Sales, USA, Incorporated.

Mr. Lentz, 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 House to be advised by counsel during your testimony. Do you wish to be represented by counsel?

Mr. Lentz. Yes, I do.

Mr. Stupak. Would you please identify him?

Mr. Lentz. Ken Hester from King and Spaulding. As well, Mr. Chairman, if you would like to hear from an expert that has done

testing on Dr. Gilbert's as well as Exponent, there was another attorney present today, Vince Galvin of Bowman and Brooke. He is here with me as well.

Mr. Stupak. Any time during questions or testimony if you want to consult with them, you can, but we would look to you for the answers to the questions.

Mr. Lentz. Yes, sir.

Mr. Stupak. As I said, it is our policy to take our testimony under oath. I would ask you to please rise and raise your right hand and take the oath.

[Witness sworn.]

Mr. Stupak. Let the record reflect that the witness has replied in at firm. He is now under oath.

Mr. Lentz, I would ask for an opening statement. You may begin, please.

STATEMENT OF JAMES E. LENTZ, PRESIDENT AND CHIEF OPERATING OFFICER, TOYOTA MOTOR SALES, USA, INC.

Mr. Lentz. First I am here with my tour de famille. Dealers are here, associates are here, as well as the plant associates, and I thank them for coming.

Chairman Waxman, Subcommittee Chairman Stupak, Ranking Member Barton and members of the committee, thank you for inviting me here today. My name is Jim Lentz. I am the President and Chief Operating Officer of Toyota Motor Sales, USA. In my testimony, I will address Toyota's recent recalls and the decisive actions that we are taking to restore trust in the tens of millions of Americans who purchase and drive our vehicles.

For two generations, we have provided Americans with cars and trucks that are safe and reliable and we fully intend to produce even safer and higher quality vehicles into the future even as we pave the way for the next generation of electric vehicles and hybrids that our society needs.

In recent months, we have not lived up to our high standards our customers and the public have come to expect from Toyota. Put simply, it has taken us too long to come to grips with a rare but serious set of safety issues, despite all of our good faith efforts. The problem has also been compounded by our poor communications within our company and with regulators and

consumers.

While all auto companies have recalls and all major auto companies have experienced complaints about unintended acceleration, Toyota's recalls have caused concern among our customers. I would like to assure the committee and the American people that nothing is more important to Toyota than the safety and the reliability of the vehicles that our customers drive.

We are committed to not only fixing the vehicles on the road and ensuring that they are safe, but making all of our new vehicles better, even more reliable, through strict quality controls, enhanced communication, and redoubling our focus on putting the customer first.

Our 1,500 dealers are making tremendous efforts to complete our recalls as quickly and as conveniently as possible for our customers. Some dealers are staying open 24 hours a day, 7 days a week, and they are repairing vehicles at the rate of about 50,000 a day. Thus far, we have repaired nearly 800,000 vehicles. We have rigorously tested our solutions and we are confident that these repairs to Toyota vehicles will make them among the safest on the road today.

Our engineers have identified two specific mechanical causes of unintended acceleration covered by recalls and we currently address these through our open recalls. One involves floor mats, that when lose or improperly fitted can entrap the accelerator pedal. The other concern is accelerator pedals that over time can

grow sticky with wear and humidity. The solutions that we have developed are both effective and durable.

We are confident that no problems exist in our electronic throttle systems in our vehicles. We have designed our electronic throttle system with multiple fail-safe mechanisms to shut off or reduce engine power in the event of a system failure. We have done extensive testing on this system, and we have never found a malfunction that has caused unintended acceleration.

Additionally, in December we asked Exponent, a world-class engineering and scientific consulting firm, to conduct a comprehensive independent analysis of our electronic throttle system with an unlimited budget. Their interim report confirms that it works as it is designed. Toyota will make the results of this comprehensive evaluation available to the public and the Congress as soon as it is completed.

So, why did it take so long to get this to this point? With respect to pedal entrapment, Toyota conducted investigations of consumer complaints which focused too narrowly on technical issues without taking full account on the way consumers used our vehicles.

In the case of sticking accelerator pedals, we failed to promptly analyze and respond to information emerging from Europe and the United States. We acknowledge these mistakes. We apologize for them. And we have learned from them. We now understand that we must think differently when investigating

complaints and communicate faster, better and more effectively with our customers and with our regulators. Our recent voluntary recalls of certain 2010 Prius and Lexus hybrids and certain 2010 Tacoma trucks illustrate this approach.

We are also going further. Our President Akia Toyoda has announced a top-to-bottom review of our operations that he will personally lead with the support of a new chief quality officer from North America and our other principal regions. We will ask independent outside experts to evaluate the findings to make sure that we meet or exceed industry standards. We are expanding our network of technical offices in the U.S. so we can gather information faster and respond more aggressively to incident reports. And we will install advanced brake override systems in all of our new models, making us one of the first full-line manufacturers to offer this customer confidence feature as standard equipment.

Additionally, we are announcing that we will install this system on an expanded range of vehicles, including Tacoma, Venza and Sequoia models, that are capable of accepting this new software. We have previously announced this system would be involved in Camry, Avalon, Lexus ES and IS models.

These actions underscore that Toyota is going above and beyond what is necessary in terms of vehicle modifications and repairs to ensure that our customers can be completely confident in the safety and reliability of their cars and trucks.

Chairman Waxman, Subcommittee Chairman Stupak, and ranking members, as well as members of the committee, these are only some of the steps that we are taking to earn back the confidence of Congress and the American people. Our 200,000 team members, dealership employees and suppliers in the U.S. are the backbone of that effort. I am confident that we will succeed in restoring customer trust in our quality, safety and reliability of our vehicles.

Thank you very much. I am ready for your questions.

[The prepared statement of Mr. Lentz follows:]

******** INSERT 4-1 ********

Mr. Stupak. Thank you, Mr. Lentz.

Chairman Waxman for questions, please.

The Chairman. Thank you, Mr. Chairman.

Mr. Lentz, thank you for your testimony, your cooperation with this committee's investigation. These past few months have not been a happy time for your company or for your customers. People have been very anxious about what appears to be a rare situation, but it is a very scary and possibly fatal situation if a car has a sudden acceleration and the car seems to be out of control.

For the future, you are suggesting that you are going to put in a system where the brake will override the gas pedal?

Mr. Lentz. Yes. 2011 model year vehicles. So with the exception of maybe one vehicle by the end of this calendar year, most of the vehicles that come into the U.S. will have as standard equipment the brake override system.

The Chairman. That will be helpful. But let me ask you about the cars that are already on the road. People have these vehicles. You are not planning to do any retrofit of the brake over the gas pedal in those cars, are you?

Mr. Lentz. There are seven of those vehicles that are currently on the road that we are retrofitting. There are seven models. Camry, Avalon --

The Chairman. You are going to retrofit all the vehicles?

Mr. Lentz. Those that are technically possible we are retrofitting

Mr. Stupak. Is your microphone still working, Mr. Lentz?

Mr. Lentz. The green light is on.

Mr. Stupak. Just get a little closer, if you can.

The Chairman. How many vehicles will then be on the road with the possible problem if the problem is due to something other than the mats or the sticky pedal?

Mr. Lentz. I don't know the exact number of vehicles on the road that will have the BOS system. It is the majority, but I can't tell you exactly what that percentage is. I don't know.

The Chairman. The majority of the vehicles on the road, that are already on the road, will be retrofitted?

Mr. Lentz. Yes, vehicles on the road will be retrofitted.

The Chairman. Now, I mentioned in my opening statement, and it has been well publicized, that I have been critical of your assurances to the American people, and I think we have a film that we can show you. Let's see if we can get that in.

[Film shown.]

The Chairman. We are having some trouble with our sound system.

Do you stand by that statement? Are you still confident that the two recalls that you put into place will solve the problem?

Mr. Lentz. Let me make sure that it is very clear on my statement. Unintended acceleration, as I view it and define it,

is any time that a driver removes their input from the accelerator and the vehicle continues at some speed. And there are many different causes for that. There are mechanical causes, whether it is a software issue in a transmission, whether it could be an idle-up from an air conditioner, whether it could be a faulty cruise control, whether it could be a pedal, in this case an entrapped pedal.

The Chairman. What concerns me, Mr. Lentz, is that there seems to be a difference between your statement that was given on television and the statements other Toyota officials have given to our committee staff. Even your own counsel in a letter to us said that the sticky pedals become lodged in a partially depressed position, which typically does not translate into a sudden high speed acceleration event.

Also, it appears that you are trying to give assurances to people, convince them, that both of Toyota's recent recalls will address the problem. But our committee's investigation calls into accuracy your statement because 70 percent of the complaints of sudden unintended acceleration that come into Toyota's customer call line were from drivers of vehicles who were not included in either of these recalls.

How do you respond to that?

Mr. Lentz. Well, if I could, the week, it seems like a week, the day that I was in New York doing interviews, there were a number of television interviews. There was also an audio

conference call with about 150 journalists. And if I could read to you just a response that I made to a question?

The Chairman. It is different from the one on television?

Mr. Lentz. Yes.

The Chairman. And is it more consistent with what we are being told privately by your counsel and by your own technical people?

Mr. Lentz. I don't know exactly what it is.

The Chairman. Let me ask you the question directly?

Mr. Lentz. Please.

The Chairman. Do you leave believe that the recall on the carpet changes and the recall on the sticky pedal will solve the problem of sudden unintended acceleration?

Mr. Lentz. Not totally.

The Chairman. What do you need to do?

Mr. Lentz. We need to continue to be vigilant and continue to investigate all of the complaints that we get from consumers that we have done a relatively poor job of doing in the past.

The Chairman. And why haven't you looked at the possibility of the electronics and the computer system being a possible fault, as we heard from the first witnesses, the witnesses on our first panel?

Mr. Lentz. We have looked into the electronics. And based on the testing we have done in Japan and now Exponent, that you saw the initial response from their testing, we continue to test

the ETCS in Japan, as well as now what Exponent is doing, and we have not found a malfunction. It doesn't mean that we stop.

The Chairman. But Exponent's evaluation has been very, very criticized as not being well done, not scientifically, the sample was too small, and an unreliable report. Do you have something more from Japan that you haven't given us?

Mr. Lentz. I am relying on the information that I have received from Japan, that they are confident that testing has been done in Japan and they are confident that there are not issues with the ECU.

The Chairman. Well, Mr. Lentz, my time is up. Let me just tell you that I am not confident that you are looking for something that you don't think exists, because if you are not looking for it you won't find it. And we had these two witnesses earlier who spent 3 hours and came up with the possibility that this sudden acceleration could take place because of the electronics and the computer system. That report that you gave to our committee from Exponent does not justify ruling that possibility out.

Mr. Lentz. It is not intended to do that. That is just the beginning of their investigation. They have many, many more steps to complete, and we will provide you with the final when they get it done. That is just the beginning.

The Chairman. That report is the beginning, but that beginning only started this month.

Mr. Lentz. It started --

The Chairman. In February of 2010. You are only starting to look at it, and you had an analysis done that was quite inadequate. We need to be sure that you are doing a full and adequate analysis of something you have denied, but which other witnesses have shown us is very possible as an explanation for the sudden acceleration.

Mr. Chairman, my time has expired. I know other members will want to pursue this with Mr. Lentz.

Mr. Stupak. Thank you, Mr. Chairman.

Mr. Burgess for questions.

Dr. Burgess. Well, Mr. Lentz, just to continue on that same line that the chairman was just following, yes, you have a responsibility to do these things, but there is also a Federal agency who is responsible for traffic safety that has an oversight role here. What have they told you about their independent testing of your electronic throttle control systems?

Mr. Lentz. I don't know specifically of the results of the tests, other than there have been many, many cases in the past that have been opened, investigations, that have been closed and they have not found anything. I can't tell you specifically what their testing paradigm was.

Dr. Burgess. Of course, we have had so much data in front of us today. There is one graph here that shows the complaints of unintended uncommanded acceleration that really start in 2002,

which my understanding is that that is the year that the electronic throttle control actually came into being on your cars, is that correct?

Mr. Lentz. I believe 2001 might have been the first year on LS, but it is very close.

Dr. Burgess. You heard Mr. Gilbert testify here, and actually it was in response to Mr. Buyer's question, that he cut no wires when he did his simulation. Have your guys been able to reproduce his results without cutting wires?

Mr. Lentz. Exponent in their initial study, I was up at Exponent a few weeks ago and they showed how they tested a vehicle for a vehicle short and other situations that involved the electronics from the pedal to the throttle ECM.

Dr. Burgess. Were they able to reproduce what Mr. Gilbert showed?

Mr. Lentz. No. In every case they went into an error code. As you, we received Mr. Gilbert's information very, very late.

Dr. Burgess. Let me ask you this. Are you going to hire him now? It took him 3 hours to find the problem. If he is correct, we have to make that leap of faith.

Mr. Lentz. But quite frankly, we encourage people to try to find this. It is not in our interest if a problem exists to not find it and not figure it out. So if it exists, we encourage the Mr. Gilberts of the world to look at it. It just seems a little too good to be true that somebody could figure this out in 3-1/2

hours, when an industry has been looking for this for 10 years.

Dr. Burgess. It may not be fair to ask you to testify to this, but you heard Mr. Gilbert's testimony. Do you or someone in your organization think it is possible that what he has described would be responsible for what happened, and if it did, would you expect to see some physical evidence, chafing of wires, crossing of wires, or something that actually brought two circuits into contact with the correct amount of resistance and then putting the 5 volts on top of it to create uncommanded acceleration? Is there anyone in your organization who is able to talk to us about that?

Mr. Lentz. Vince is here, he is one of our attorneys and he has been working with Exponent. And at some point we would love to get Exponent and Mr. Gilbert maybe together. But if you would like, Vince can give you a very quick explanation of what they found. I am not an engineer, so I would probably mess this up.

Dr. Burgess. Since we are taking testimony under oath, I don't know what is permissible here.

Let me just ask you a question on the fix, because I know your dealers in my area, Toyota of Lewisville, they have been Johnny-on-the-spot with this. They have been getting people in, it takes them 20 minutes to fix it. But if they are fixing the wrong problem and they really need to be developing whatever you call the advanced override for the brake system, then you wonder if we are going to have to call people in for yet another fix to the problem.

Now, what actually fixes the accelerator pedal? What have you developed that will fix that problem on the recall?

Mr. Lentz. There are two different issues. In the case of a sticky accelerator pedal, they are actually putting in a precision cut steel plate.

Dr. Burgess. We call that a shim, right?

Mr. Lentz. Yes.

Dr. Burgess. How many different sizes of precision cut plates are you producing?

Mr. Lentz. I believe it is either seven or nine.

Dr. Burgess. Seven or nine.

Mr. Lentz. Yes.

Dr. Burgess. Presumably this material that is hydroscopic and absorbing water and becoming incompatible with proper function, presumably that is a precision manufactured component, is it not?

Mr. Lentz. I would assume so. I don't know anything about the manufacturing.

Dr. Burgess. The fact that you have to have seven or nine different size shims?

Mr. Lentz. I believe it has to do with the amount of wear that is actually on that shim. So when the technician takes the pedal off, they actually measure how large the gap is, and that determines the size of the shim that they put in, the steel plate.

Dr. Burgess. But it does strain credulity that a

precision-designed chronometer, this shim that we are talking about, it just doesn't seem reasonable that there would have to be so many different sizes in order to fix the problem if the problem was the pedal absorbing atmospheric moisture.

Mr. Lentz. Well, the size difference is in very small millimeters. To the naked aye, you can tell the difference between the biggest and the smallest, but as you go down the row, they are very, very close in total size.

But what it really does is it ensures that excess friction won't build up in the pedal. And what happens in the past is with wear it gets shiny and once humidity is added to that, it actually builds up too much friction, and that is when the pedal starts to bind or possibly stick.

Dr. Burgess. Now this fix on this recall, the National Highway Traffic Safety Administration, they have signed off on this and feel that this fixes the problem? Have they looked at it themselves?

Mr. Lentz. They don't sign off. We show them our solution and they don't disagree. So we are confident it is the right fix.

Dr. Burgess. What about the fix of putting the advanced brake override system in?

Mr. Lentz. Advanced brake overrides in production vehicles has already started on vehicles like ES and Camry.

Dr. Burgess. But for those of us that have older model Toyotas that wanted to have that degree of safety built in for our

families, how do we go about getting that done?

Mr. Lentz. It is a reflash on those seven vehicles, and it varies by vehicle by model year.

Dr. Burgess. By reflash, you mean you reset the computer?

Mr. Lentz. It is a reflash of the computer to be able to add that.

Dr. Burgess. Technically, how difficult is that to do?

Mr. Lentz. It takes anywhere from 15 to 30 minutes.

Dr. Burgess. And how much does it cost?

Mr. Lentz. We are providing that.

Dr. Burgess. It just seems reason that that is something that really should happen in addition to all these other things, just to be on the safe side.

Mr. Lentz. It is for added consumer confidence.

Dr. Burgess. Thank you.

Mr. Stupak. Thank you, Mr. Burgess.

On this rebooting of this computer there, why are only some of the vehicles going to be rebooted and not the other ones?

Mr. Lentz. It depends on the feasibility of the unit. Some of the computers have different types of chips in them. Some are not rewritable. Basically they are hard coded.

Mr. Stupak. So can't you rewrite the programs so that all of your vehicles are covered? What do you say to these owners who are not going to have this safety feature added to it? They are just going to continue to drive down the road and hope they don't

have a sudden unintended acceleration?

Mr. Lentz. Well, again, the possibility of that happening is very, very slim, but understanding if it happens to you, it is a very, very important incident.

Mr. Stupak. Sure. Very, very slim. Let's take a look at that. From slim let's go to shim.

You talked a lot about the shim there with Mr. Burgess, but the documents we asked for, and I put this in our letter on February 22nd on the second page, I was going to ask you this question. We wrote to you on February 2nd to request any analysis of Toyota that shows sticky pedals can cause some unintended acceleration. You didn't produce any analysis. In fact, your counsel actually said, "Typically, a sticky pedal does not translate into a sudden high speed acceleration event." So, this shim isn't going to solve this sudden unintended acceleration.

Mr. Lentz. It will prevent unintended acceleration. High speed, most likely not, because in the few incidents where we had a pedal stick, it is a very low throttle opening.

Mr. Stupak. As Chairman Waxman pointed out, of the complaints you have in your own database, approximately 70 percent of the sudden unintended acceleration events in your own database involves vehicles that are not subject to the floor mat or the sticky pedal recall. So 70 percent of the problem isn't being addressed by the recall, correct?

Mr. Lentz. Well, a couple of issues. The most important

part about it is those in many cases are customer generated -- I don't want to call them complaints, but feedback to us that they are having an issue. What is most important is we are able to investigate those as quickly as possible so we can understand what is going on. And in the past, we have not done a very good job of doing that.

Mr. Stupak. You haven't done a very good job doing that. We had Mr. Kane on the last panel, they had over 2,000 complaints, and when they went through it, he figured maybe half of them, 1,130-some, cannot be explained other than what the driver said, which is this sudden unintended acceleration. You disagree with that?

Mr. Lentz. Well, I am not sure if his database is sudden or unintended. I don't want to get into what "is" is here. But there is a big difference between unintended and sudden unintended.

My understanding is the database through NHTSA includes other things such as surges, whether it be from a cruise control, a transmission, or other issues. So I can't tell you from the data that they are using.

Mr. Stupak. But some of the complaints are like recently, I put it into park, I popped over the curb and hit a tree. One gentleman went off a cliff and his wife died.

Mr. Lentz. Yes.

Mr. Stupak. And that wasn't a high speed. But that was a

sudden unintended acceleration. It doesn't always have to be at high speed.

Mr. Lentz. Correct.

Mr. Stupak. That is why I think all of them have to be taken seriously.

Mr. Lentz. Yes, there is no question.

Mr. Stupak. So for 70 percent of those complaints in your database, we don't have an answer for yet.

Mr. Lentz. There are answers with other mechanical breakdowns, from transmissions, from other engine surges. There is pedal misapplication that is the possibility as well. And we are not here blaming customers, but it does take place.

Mr. Stupak. But it sort of sounds that way. I don't mean to be nitpicking here, but when Mr. Waxman asked you a question about unintended acceleration, you said "as I would define it." That is what you said to the chairman. And it seems like when we get this sudden unintended acceleration, it is the way Toyota wants to define it, not the customer.

Mr. Lentz. Well, but I think we are defining it as a customer is defining it, and that is a much broader spectrum of any type of surge or movement in the vehicle that the customer doesn't expect to take place. And that can happen from a number of different sources. To me, I would rather have the broad spectrum to look at than a more narrow spectrum of high speed.

Mr. Stupak. Let's talk about the customer here, because this

started in the 2001-2002 model year. You went from the mechanical to the computer electronically-driven throttle system. And by 2004, NHTSA has presented Toyota with a document showing you a 400 percent increase in complaints. That was in 2004.

We learned, and you testified or mentioned in one of your interviews, that you had a recall in Europe, in what, April or May, of this sudden acceleration. Didn't you do some things in Europe, in England, in Ireland? Did you have a recall there?

Mr. Lentz. That is on the sticky pedal?

Mr. Stupak. Right.

Mr. Lentz. Yes.

Mr. Stupak. So in Europe, excuse me, in England and Ireland, is that just sticky pedal?

Mr. Lentz. That was a sticky pedal in Europe.

Mr. Stupak. That is in response to sudden unintended acceleration?

Mr. Lentz. Again, it is in response to unintended, the possibility of unintended acceleration, which is a safety issue. To me --

Mr. Stupak. When you did the recall in Europe and did your fix in Europe, in England, did you notify NHTSA of this?

Mr. Lentz. We knew about it. I knew about it in November --

Mr. Stupak. But did you notify NHTSA?

Mr. Lentz. We notified NHTSA as soon as we knew about the

situation in the U.S. We didn't --

Mr. Stupak. Wait a minute.

Mr. Lentz. November of 2009.

Mr. Stupak. Okay. It took you until November of 2009 when you have had a 400 percent increase in complaints since 2004 to realize there might be a problem in the United States after a recall in Europe?

Mr. Lentz. Well, I am speaking specifically about sticky pedals. Those don't go back to 2002. The sticky pedal event began in the United States -- there was one instance I believe in 2006 or 7. But it was October of 2009 that we had three Corollas, and that generated our investigation and we notified NHTSA immediately that we had seen that.

Mr. Stupak. And you still -- do you have any analysis, any evidence, that sticky pedals can cause a sudden unintended acceleration?

Mr. Lentz. It depends on the definition of "sudden." If it means that you can be depressing a pedal, take your foot off the pedal and the car continues at speed, it does cause that.

Mr. Stupak. Quoting your counsel, typically it does not translate into a sudden high speed acceleration event, sticky pedals. So sticky pedals isn't doing anything about sudden high speed?

Mr. Lentz. Not for high speed.

Mr. Stupak. And you agree with me there is 70 percent of the

customers in the database we still don't have an answer for their unintended acceleration, if I can use that word?

Mr. Lentz. There are many factors that lead to it.

Mr. Stupak. But 70 percent of them we don't have an answer for, is that fair to say?

Mr. Lentz. That is probably fair to say.

Mr. Stupak. If I can just ask you one more question. This is Saturday's Washington Post, February 20th. It is on the righthand side. "Suspicion lingers over acceleration in Camrys." Okay. The reason why I bring it up is because they cite three fatals of 2005 Camrys.

It says, on each of these three fatal episodes, the car involved was a 2005 Toyota Camry, a model that the company has indicated is free of acceleration defects. It has not been recalled for either the sticky pedal or the floor mat interference, is that true?

Mr. Lentz. I believe so.

Mr. Stupak. Any suggestions on why the Camry has this acceleration problem?

Mr. Lentz. When the model year changed in 2004, there was an acceleration issue that had to do with the transmission, that there was a surge between 38 and 42 miles per hour, and that surge was caused by a torque converter locking up that wasn't very smooth. It was a shift shock basically. And that was reported by customers as an unintended acceleration. That software was

changed, and that tended to subside that particular issue.

Mr. Stupak. Have you gone back and fixed the software in the 2005 Camrys then? Because these fatals I am talking about is the one that went across the parking lot and went over a 70-foot cliff where his wife died.

Mr. Lentz. Again, I don't know that.

Mr. Stupak. Have you put out a recall on the 2005 Camry to fix this? A recall?

Mr. Lentz. On the pedal?

Mr. Stupak. On this torque issue.

Mr. Lentz. The torque converter was 2004.

Mr. Stupak. These are 2005 Camrys.

Mr. Lentz. I understand.

Mr. Stupak. We still have Toyota vehicles that have acceleration and we don't know what the problem is?

Mr. Lentz. There is the possibility through either mechanical or human or some other type of error that could cause that.

Mr. Stupak. Thank you.

Mr. Barton, questions?

Mr. Barton. Thank you, Mr. Chairman. Thanks for those questions. I thought they were excellent.

Mr. Lentz, what is your background? You said you are not an engineer. What are you?

Mr. Lentz. Sales and marketing. I have a degree in

marketing, in economics, and an MBA in finance.

Mr. Barton. Okay. So you do agree from a marketing standpoint that what is going on now is fairly detrimental to your company. Two of your principal dealerships in Texas yesterday met with me, one in Houston and one in Arlington, and their sales are down about 30 percent. I would assume from a marketing standpoint that is not a good thing.

Mr. Lentz. No, sir, it is not.

Mr. Barton. Okay. You are the CEO of Toyota in the United States. How much authority do you have to solve this problem? Can you pretty well call the shots, or do you have to ask for authority from headquarters in Tokyo?

Mr. Lentz. Well, I am the Chief Operating Officer for the U.S. From a marketing standpoint, I call the shots.

Mr. Barton. A marketing standpoint.

Mr. Lentz. If you are talking about from a defect standpoint or a determination of a recall standpoint, those decisions have been made in Japan in the past.

Mr. Barton. Okay. And I am not saying that is a bad thing.

Mr. Lentz. But it is changing.

Mr. Bartlett. I just want to know how far you can go if you make a promise today that you can deliver on it.

Mr. Lentz. But that is changing. There are a number of different organizations being put into the company that are going to make things much more transparent around the globe, much more

transparent with regulators, and allow us to have input into defect decisions that in the past were always made in Japan. There will be a North American on the committee that makes defect recommendations now, and there will be a process if we don't agree with the decision of that committee that we can have a process to override. Today, that is not existent.

Mr. Barton. In the prior panel, I don't know if you were in the room or not, but we had a couple I believe from Tennessee, the Smith couple, and the wife, her car experienced an out-of-control acceleration for a number of minutes. She was literally in this car long enough she put it in neutral, she put her foot on the brake, she tried to turn the ignition off, she put it in reverse, she called her husband on her cell phone. That was not a sticky pedal because of a floor mat. Something happened to that car that is unexplainable so far.

Now, we normally when something bad happens in a product, if there is a plane crash, we go to the scene and investigate the plane. If there is a bridge collapse, we go to the collapse of the bridge and we look for structural defect, or design defect if there is a building collapse.

In this case, we have a car that had out of control acceleration and apparently all that was done was it went to a dealership and they did a routine computer program review. Why has Toyota not obtained that vehicle and taken it to your laboratory and done everything possible to discover what caused

the malfunction?

Mr. Lentz. I don't know specifically in her case, other than I did hear her comment that she had mentioned that a field technical specialist looked at her car.

Mr. Barton. A field technical specialist.

Mr. Lentz. Right. That is somebody that works for Toyota.

Mr. Barton. So you sent one person you are paying $50,000 a year, and they spent an hour and they hooked up their little program and they said we don't see a problem, and they filled out a form we don't see a problem. You have got a multi-billion dollar company that is experiencing a multi-billion hit in the marketplace. Why in the world won't you get that vehicle and do everything possible to determine -- it really doesn't matter that you have got 5 million vehicles that are performing flawlessly if you have got 10 that have failed. Her problem is not a floor mat problem. It is not a floor mat problem.

Mr. Lentz. I don't know. I can't --

Mr. Barton. Well, I know. I take her at her word. In fact, she is going down the highway at 100 miles an hour, she has got enough sense to pull the damn floor mat from underneath the pedal if that is what is causing it. You know that and I know that. You can't say it because of all the lawsuits. So why don't you all get the cars that have had the problem, and if you need NHTSA there to verify what you are doing, get them. But if I am President of Toyota, I am going to get the cars that we know had a

problem and I am going to do everything I can to find out what caused that problem, and then I am going to fix it if it is fixable.

With Gulf States Toyota and Vandergriff Toyota, those are good people. They want to sell your cars and they are doing this fix, and in my opinion it is a sham. Not because they are not fixing that. They are making it feel better. They are shortening the pedal about an inch and a half and putting this shim that Mr. Burgess has talked about so that it feels differently. But unless it is a floor mat issue, which in some cases it may be, you are not solving the problem that Mrs. Smith had. She didn't have a floor mat problem.

So, again, why don't you get that car, it is still in existence, and check it out? Tear it apart. Do whatever. And do it with witnesses that are credible, because my guess is you have got some really, really smart engineers.

Mr. Lentz. Yes, sir.

Mr. Barton. Hopefully they will shoot straight with you, and whatever the issue is, it is -- you know, I am an engineer. Engineers are trained. We identify the problem, develop an optimal solution, implement the solution. You probably can solve this problem, if you really try to.

Mr. Lentz. Well, in terms of going out and seeing what the situation is, we today have two engineering centers here within the U.S. with about 80 engineers. We are adding three more of

those. Because our goal is on any unintended acceleration, is to be able to contact the customer --

Mr. Barton. You are not answering. Why won't you get that car and check it out?

Mr. Lentz. That is what I am saying. The goal is with these added centers and added engineers, is within 24 hours we want to be at that vehicle and we will inform NHTSA of the situation if they would like to join us. NHTSA has joined us in some of these cases in the past. So we can get that car and see exactly what is going on.

Mr. Barton. But you haven't gotten the Smiths' car?

Mr. Lentz. The Smith car, I have written down to find out what happened with that. I have to tell you --

Mr. Barton. Again, my time has expired. If I am CEO and I have the authority, as soon as I walk out of this hearing, I pick up the phone and I say get that car. If I have to pay $100,000, get that car, put the best engineers on it, let's tear the damn thing apart and let's find out what is happening to it. Because you can do all this other stuff, but if you don't go where the problem is, you know, you are probably never going to figure out what is going on.

Mr. Lentz. I can tell you, listening to Mrs. Smith, I am embarrassed for what happened, and we are going to go down and talk to them and get that car so that they feel satisfied. I want her and her husband to feel safe about driving our products. I

was embarrassed to hear the story.

Mr. Barton. Well, my time has expired. We are happy -- I have a GM assembly plant in my district, so I have got a good relationship with General Motors. I have a Toyota sub-assembly vendor plant in my district that makes component parts for Toyota. So I am not on any -- I want the truth and I want, whether my constituency wants to buy a GM product or a Toyota product or any other product in the automotive sector, to feel that those products are safe, period. And I have confidence in your engineering department. You can solve it if your legal department will let you solve it.

Thank you, Mr. Chairman.

Mr. Stupak. Mr. Dingell for questions. Mr. Dingell waived his opening statement and also waived questioning the last witness, so I will give him some leeway with this panel.

Mr. Dingell for questions.

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

Mr. Lentz, please tell me the date that Toyota first heard of incidents of sudden acceleration in its vehicles sold in the U.S.

Mr. Lentz. I don't know the answer to that.

Mr. Dingell. Please submit that to the record.

[The information follows:]

******** COMMITTEE INSERT ********

Mr. Dingell. Now, Mr. Lentz, please tell me the date on which Toyota commenced the first recall to address this problem in the United States?

Mr. Lentz. If I don't know the answer to the first one, I don't know the answer to the second one.

Mr. Dingell. Please submit that for the record. I had heard that the first notice of it in the U.S. was in November, and that your first notice of it in Europe was in May of the same year. Is that correct? Yes or no?

Mr. Lentz. I am sorry. I thought when you talked about sudden acceleration --

Mr. Dingell. I am talking about sudden acceleration.

Mr. Lentz. But in November, sudden acceleration has been around in the industry for 15 or 20 years.

Mr. Dingell. I just want an answer, not a speech.

Now, since 2001, how many complaints of sudden unintended acceleration in vehicles sold in the United States has Toyota Motor Sales USA received?

Mr. Lentz. I don't know that number.

Mr. Dingell. Please submit that for the record.

[The information follows:]

******** COMMITTEE INSERT ********

Mr. Dingell. How many of those complaints has Toyota Motor Sales USA forwarded to NHTSA?

Mr. Lentz. I don't know that number.

Mr. Dingell. Please submit that for the record.

Mr. Lentz, yes or no, prior to the U.S. recalls, were you empowered to authorize recalls for Toyota products manufactured or sold in the United States?

Mr. Lentz. No.

Mr. Dingell. Who was responsible for that?

Mr. Lentz. Japan is responsible.

Mr. Dingell. That was Japan's responsibility.

Now, Mr. Lentz, yes or no, is it true that the Toyota recall process for vehicles manufactured and/or sold in the United States requires the decisions concerning these recalls to be made in Japan or with Japanese oversight? Yes or no.

Mr. Lentz. Yes.

Mr. Dingell. Mr. Lentz, yes or no, is it true that Toyota had not reached a decision about whether to recall vehicle models linked to sudden unintended acceleration prior to being visited by Acting NHTSA Administrator Ron Medford in December 2009? Yes or no.

Mr. Lentz. I think you have to be more specific about is that the floor mat recall issue or is that the sticky pedal issue?

Mr. Dingell. Well, apply it to both.

Mr. Lentz. Okay. In the case of the sticking pedal issue, I know Mr. Medford went to Japan. I can't tell you specifically if that is the reason. Obviously, NHTSA was clear with us that we were going to have to do something with those vehicles.

Mr. Dingell. And you had not previously to that time done anything?

Mr. Lentz. In the case of the sticky pedal situation, I first knew about that in November of 2009. We had reports of three vehicles --

Mr. Dingell. And he went there in December of 2009.

Mr. Lentz. Correct.

Mr. Dingell. Had you done anything about a recall prior to that time?

Mr. Lentz. No, sir. It was still under investigation.

Mr. Dingell. Now, Mr. Lentz, yes or no, did Acting Administrator Medford's December 2009 visit to Japan and discussions with Toyota executives have any influence on the decision to recall vehicle models linked to the sudden unintended acceleration problem?

Mr. Lentz. Again, if you are speaking of the sticking pedal, I don't know. Specifically I was not in the meeting, but I would think it probably did.

Mr. Dingell. Now, Mr. Lentz, in correspondence addressed to this committee, certain elected officials have communicated their concern that the United States Government's financial stake in

Chrysler and General Motors represents a conflict of interest that may be influencing its regulation of Toyota. If that is true, I am outraged.

Do you believe that that statement is true, or not?

Mr. Lentz. I don't believe that is true. I think the government is acting fairly.

Mr. Dingell. Thank you.

Now, Mr. Lentz, yes or no, are the reporting requirements for early warning of possible vehicle safety defects different in Japan than in the United States?

Mr. Lentz. I am not familiar with the process in Japan.

Mr. Dingell. Would you submit that for the record, please?

[The information follows:]

******** COMMITTEE INSERT ********

Mr. Dingell. Mr. Lentz, are the Japanese requirements in regard to this matter more or less stringent than American standards?

Mr. Lentz. Again, my responsibility is the United States. I don't know the standards for Japan.

Mr. Dingell. Now, Mr. Lentz, if the Japanese requirements are less stringent, does that affect how Toyota evaluates potential defects in its vehicles and influence what information the company provides to U.S. regulators? Yes or no.

Mr. Lentz. I would think not. The decision to make a recall in the United States is based on our experience in the United States.

Mr. Dingell. Now, Mr. Lentz, yes or no, has Toyota definitively ruled out nonmechanical failures as the source of sudden unintended acceleration in vehicles recalled in late 2009 and early 2010?

RPTS MCKENZIE

DCMN ROSEN

[3:05 p.m.]

Mr. Lentz. We never rule out anything that could cause sudden unintended acceleration?

Mr. Dingell. So you have not ruled that out?

Mr. Lentz. We are vigilant and we continue to look for potential causes.

Mr. Dingell. Now Mr. Lentz, put another way, has Toyota definitively determined that electromagnetic interference with or other failures in electronic throttle controls are the cause of sudden unintended acceleration in the vehicles recalled in 2009 and early 2010, yes or no?

Mr. Lentz. We are studying, through the Exponent study you have now which was preliminary, there was a lot more investigation to go on. So it's been looked at as well as there is going to be an advisory board on quality and safety for the United States.

Mr. Dingell. Thank you. Now Mr. Lentz, I understand from your testimony that Toyota has called upon Exponent to conduct tests on certain Toyota vehicles to determine possible causes of unintended acceleration. That is true, is it not?

Mr. Lentz. Exponent is checking our ETCS, yes.

Mr. Dingell. Now Mr. Lentz, did the report conclude that electromagnetic interference was a potential cause of sudden

unintended acceleration, yes or no?

Mr. Lentz. It has not tested electromagnetic as of yet. What you've seen is --

Mr. Dingell. So they have not tested it so they don't know.

Mr. Lentz. It has not been tested yet. It is going to be tested, and we will provide you with the final testing when it's available.

Mr. Dingell. Thank you. How many models of Toyota vehicles did Exponent test?

Mr. Lentz. I do not know that.

Mr. Dingell. How many did they not test?

Mr. Lentz. When I was there, I saw five different models being tested.

Mr. Dingell. Would you please submit the response to those questions for the record, please. Now Mr. Lentz, yes or no, do you feel that this is an adequate sample of vehicles for the purposes of Exponent's tests?

Mr. Lentz. If you look at --

Mr. Dingell. You said yourself, five vehicles there.

Mr. Lentz. If you look at the ETCS system, the system from vehicle to vehicle is very, very similar. The throttle body may be a different size, but the general architecture of the system is similar.

Mr. Dingell. Mr. Lentz, I am just a poor Polish lawyer from Detroit. Would you please tell me yes or no so that I can

understand it.

Mr. Lentz. I don't know how to answer that in a yes or no. I think they are testing multiple vehicles. They are testing the system, not particularly how does it work on a Camry versus an FJ Cruiser.

Mr. Dingell. Thank you, Mr. Lentz. Now, yes or no, are the event data recorders EDRs installed in all Toyota vehicles sold in the United States?

Mr. Lentz. As of today, no.

Mr. Dingell. As of today?

Mr. Lentz. As of today they are not. EDRs are not in 100 percent of our vehicles.

Mr. Dingell. Yes or no, would these EDRs contain information such as recordings of vehicle component failures that would be useful to investigators in determining the cause of an accident?

Mr. Lentz. I don't know exactly what they provide. I can tell you they provide information five seconds prior and one second after an accident. I can tell you that by the end of --

Mr. Dingell. Would you please, Mr. Lentz, submit to me for the record the answer to that question. Now, can data from -- again, yes or no, from EDRs installed in Toyota vehicles be easily read by non-Toyota personnel, such as NHTSA investigators?

Mr. Lentz. Yes, with the proper scan tool of which we are going to produce and get 100 of them in the United States by April.

Mr. Dingell. So they have not been previously made available to NHTSA?

Mr. Lentz. There is only one prototype in the United States today, but we will take available --

Mr. Dingell. All right. What percentage of your vehicles imported into the United States or are manufactured here have EDRs?

Mr. Lentz. I don't know the exact percentage. I think it's all vehicles except for -- I can -- if I can look at notes, I can give you --

Mr. Dingell. Please submit that for the record. Mr. Lentz, in general, prior to Toyota recalls this year and last, by whom and where could such data from Toyota EDRs be read in the United States?

Mr. Lentz. I don't know the answer to that because there was only --

Mr. Dingell. If you would please, Mr. Lentz, submit that for the record.

Mr. Lentz. There is only one prototype tool available in the United States today.

Mr. Dingell. So whoever wanted to look at that had to go look at that prototype, right?

Mr. Lentz. Yes. And I don't know how accurate that prototype tool is.

Mr. Dingell. So you don't know how accurate it was?

Mr. Lentz. It's a single prototype tool, the standard for EDRs comes in December of 2012.

Mr. Dingell. Now, Mr. Lentz, yes or no, did NHTSA require Toyota in 2006 to conduct the tests on electronic throttle components for a 2006 Camry?

Mr. Lentz. Could you repeat the question?

Mr. Dingell. Did NHTSA require Toyota in 2006 to conduct a test on an electronic throttle component for a 2006 Camry?

Mr. Lentz. I don't know the answer to that.

Mr. Dingell. Please submit the answer for the record. Now Mr. Lentz, if so, did Toyota or a designated third party conduct the tests?

Mr. Lentz. I don't know the answer to that.

Mr. Dingell. If it was conducted by a third party, will you please tell the committee its name and submit an answer to those two questions for the purposes of the record, please.

Mr. Lentz. Congressman, I don't know the answer but we can get that information for you.

Mr. Dingell. Now Mr. Lentz, are reports on this kind of inquiry generated by Toyota by third parties or by its own internal investigations submitted to NHTSA?

Mr. Lentz. I'm not sure I understand the question.

Mr. Dingell. Well, you have these studies being made in-house or by others and the question is, are the reports on those studies submitted to NHTSA or not?

Mr. Lentz. The study that's being done by Exponent will be given to the public, to Congress as well as NHTSA.

Mr. Dingell. Has it been done so prior to this time?

Mr. Lentz. I don't know which specific study you may be speaking of.

Mr. Dingell. Well, I will let you choose. Have any of them been given to NHTSA or have they not?

Mr. Lentz. I don't know, given -- you know, given my responsibility which is on the sales end of the company, I can't --

Mr. Dingell. You have been very gracious and kind with your time. But what I am trying to figure out is, are you responsible for these matters? You don't seem to have the information that I have been questioning for. And I am curious, you told us that you were responsible for sales. Are you responsible for manufacturing? Are you responsible for safety? Are you responsible for decisions of this sort? Are these decisions made elsewhere in Japan?

Mr. Lentz. I am not responsible for manufacturing. I am not responsible for defect or quality decisions. Defect decisions, recalls specifically, are, in fact, made in Japan.

Mr. Dingell. Mr. Chairman, you have been most generous with the time. And Mr. Lentz, I thank you for your courtesy.

Mr. Stupak. Mr. Rush for questions, please.

Mr. Rush. Thank you, Mr. Chairman. Mr. Lentz, I see some

attendees who are sitting in the front row with some buttons on which say "I am Toyota America." Are these some of your employs?

Mr. Lentz. These are some of the employs from our assembly plants that do a great job for us.

Mr. Rush. Right. Well, I want to commend you on your diversity. I think that you have a very diverse workforce, and I want to welcome all of your workers here.

Mr. Lentz. Thank you, sir. They are hardworking Americans.

Mr. Rush. Thank you. We have heard some compelling and disturbing testimony from the Smiths this morning. The committee learned over the course of its investigations that Mr. and Mrs. Smith are not alone in their experience with sudden unintended acceleration and also with their frustrations of dealing with Toyota. In fact, Toyota has received thousands of complaints from its customers about frightening sudden unintended acceleration incidents, and many of these incidents, unlike the Smiths, resulted in serious injuries or even fatalities. And I would expect your company would respond to these complaints with a sense of urgency and complete a serious investigation of these problems. But that's not exactly what Toyota did in the Smiths' case.

One of the most striking things that the committee heard during this investigation and also from testimony is how the dismissive Toyota has been on this customer's report of sudden unintended acceleration. Mr. Lentz, just to tell you, I have

received just a few moments ago this text written to one of my staff members from my district in Chicago. I'm going to try to pull it up.

It says here -- it's from one of the executives at a local newspaper, the Chicago Defender. And it says, "Stephanie" -- this is one of my staff members -- "if Representative Rush wants to put a face to this Toyota mess, my sister-in-law died December 28 in a car accident near Dallas, Texas. She and three others were riding in a Toyota Avalon when it left the road, hit a tree, flipped in the air and landed upside down in a pond. Everyone died. The police said there was no evidence of any braking, giving rise to the idea that it was an accelerator problem. My sister-in-law, Sharon Love Ransom, was a senior executive with IBM. This is another indication. You have indicated to this committee this morning or this afternoon that you will retrieve the Smiths' car. Would it be asking you too much to look into this matter, and if possible, treating the car involved in this accident?

Mr. Lentz. If it's the accident that I'm thinking of -- and we can have our staff check -- both Toyota engineers and NHTSA did, in fact, inspect that vehicle.

Mr. Rush. And do you know what they determined?

Mr. Lentz. I don't know what was determined.

Mr. Rush. Would you check further into this?

Mr. Lentz. Yes, we will check into it if it's been the car.

Mr. Rush. Has there been any issues with the Avalon brand?

Mr. Lentz. There have been cases of both sticking pedals as well as floor mat entrapments, yes.

Mr. Rush. Mr. Lentz, do you have any reason to believe that out of the thousands upon thousands of complaints that Toyota or Lexus owners are inventing these terrifying stories about their driving experiences?

Mr. Lentz. No. But from an engineering standpoint, it's critical that we get information so that we can go and investigate today. In many cases, information that's submitted on NHTSA's Web site, unless there is an investigation opened, we don't have the name of the customer or the full VIN number. And I think going forward, one thing that we should think about doing is make that available to the manufacturers so that we can cross-reference that against our databases, and we can investigate these much sooner and not have to wait for an investigation to be opened to be able to do that.

Mr. Rush. From a marketing perspective, don't you feel as though Toyota and yourself -- don't you feel as though you owe your customers who some have gone through some serious injuries, a lot of hurt and pain, don't you feel as though that you owe them a sincere apology for your company, your vehicles, your product causing them sincere pain? Can't you just apologize to them?

Mr. Lentz. Yes, sir. Yes, sir. We have. Because I will tell you -- and whether it is an accident, an injury -- I mean, we heard the Smiths today. You didn't have to have a death to

understand the terror that she had from that accident. I mean, that's a terrible thing to have to put one of our customers through. And it doesn't even have to be an accident. I mean, we have apologized to our consumers just for the concern that we have given them with their current recalled vehicles. We are sincerely sorry for that concern and anxiety we put people through. I mean, myself, my wife drives a Toyota Prius. It's a recalled vehicle. My son drives a Prius. It's a recalled vehicle. My mother-in-law is in an ES 2006. My father has a Sequoia. They're recalled vehicles. I want to make sure that my loved ones are safe as well.

Mr. Rush. But switching back over to the engineering. But you still have been pretty evasive here about the cause, the actual cause of all this pain and suffering. There are a lot of inconsistencies there and a lot of dualities that you are operating from. I am not sure if the apology -- what is it based on? Is it sincere? Is this really a problem from an engineer's perspective that you assume responsibility for?

Mr. Lentz. Any time there is one death in one of our vehicles, that -- that pains us to have it take place, regardless of how it happens. But it's critical today -- and we weren't doing a good job in the past -- of investigating those quickly enough, especially when it had to do with unintended acceleration. And with adding these new engineers, these swat teams that we're going to be able to get onsite as rapidly as we can, our goal is

to make it in 24 hours. We need to be able to do that so we can understand what's happening and make the necessary changes so that it doesn't happen again. I can tell you, I lost a brother in an accident a week after his 30th birthday, and that was 20-some years ago, and there is not a day that goes by that I don't think of that. So I know what these families go through.

Mr. Rush. Thank you very much, Mr. Chairman.

Mr. Stupak. Thank you, Mr. Rush. Mr. Markey, questions, please.

Mr. Markey. Thank you, Mr. Chairman. Mr. Lentz, it seems to me that Toyota got the first dilemma back in 2000 when the British ordered a Lexus recall due to acceleration problems. Toyota got a second alarm back in 2003 with the Canadian recall. Toyota is a global corporation. Those two alarm bells should have sent your engineers scrambling to figure out what was wrong and what was needed to be done to fix the problems. Instead, the same types of problems cropped up in additional Toyota models, resulting in the recalls that bring you here today.

So instead of deploying your engineers after Toyota got those early warnings in 2000 and 2003, they waited until problems cropped up in the United States, and then Toyota deployed lawyers and lobbyists to convince the Department of Transportation that this was a small floor mat issue and not something more serious. And that, Mr. Lentz, has done a disservice to Toyota's customers and ultimately also to Toyota's dealers and to Toyota's employees.

So according to documents obtained by my office, Toyota recalled a Lexus in the United Kingdom in 2000 and a Celica in Canada in 2003 because of floor mats were entrapping the accelerator pedal and the exact same problem that has caused fatalities in this country. Why didn't Toyota take immediate action to prevent the much later accidents when Toyota clearly knew the problem existed as far back as 2000?

Mr. Lentz. Specifically on those two incidences, I can't tell you the specifics of those because I do not know. But I can tell you that a weakness in our system has been that within this company, we didn't do a very good job of sharing information across the globe. Most of the information was one way. It would flow from the regional markets, like the United States, Canada or Europe back to Japan.

Mr. Markey. So what you are saying is that ultimately the decisions are made in Japan and that notwithstanding problems that are identified in the United Kingdom, in Canada, the information goes back to Toyota headquarters in Tokyo and whether or not you, in America, are given orders to correct the problem identified in other countries, is not in your hands, is that what you are saying?

Mr. Lentz. Correct. But that is changing. There is going to be a number of different groups set up. There is an overall quality group that Akio Toyoda is going to chair.

Mr. Markey. Well, you know, that's an important change. It

obviously is a policy that I'm sure all Americans are shocked to learn existed. That is, that this system of quality control that Toyota represents to be at the heart of their corporation was not something that shared information about defects in products that were being sold in the United States even though it was identified in other countries. And that's just unacceptable. It's just plain unacceptable to the consumers here in America. Let me move forward quickly if I can. You have told The Today Show that the sticky accelerator pedal and the mat problems were the only problems and that you fixed them. You have said today that you are only just beginning to test whether or not the electronics are the problem and that you have acknowledged that you can't rule out that possibility. So the reality is, you don't know what is causing all the vehicles to suddenly accelerate and you don't know if you've solved the problem, do you?

Mr. Lentz. There are many, many causes. In terms of the recalled vehicle --

Mr. Markey. But you don't know if you've solved the problem.

Mr. Lentz. I don't think anyone any manufacturer knows 100 percent exactly what is causing --

Mr. Markey. No. What I'm saying is that since you are only beginning the investigation, you don't know if you've solved the problem, is that correct?

Mr. Lentz. ETCS has been looked at in the past in Japan as they developed the products.

Mr. Markey. You said that you had solved the problem. The truth is, you don't know if you have solved the problem, isn't that correct?

Mr. Lentz. Let me clarify my statement. In terms of solving the issues of those recalls, we've solved the problem. And if -- in documents that we have also sent you, when I did a number of interviews with journalists, I made it quite clear that my feeling is -- and this is a quote -- my feeling is that these two fixes solve the issues that we know of. Are we going to remain vigilant? Of course we will. But we are confident that entrapment is a cause. We are confident that this pedal issue is a cause. And we are confident in those two fixes. But we are also confident that from what we know today it is not an electronics issue.

Mr. Markey. What you know today. But again, you're only at the beginning of your investigation, so you don't know what caused the problem, do you?

Mr. Lentz. We have not seen failures in the ETCS, and we have -- this isn't the first time ETCS has been looked at. It is the first time that we have gone to Exponent to look at it. And when we put in our quality North America advisory board, they will have total independent control of another study of their choosing, and that's going to take place -- that committee is going to be in place by the end of March. So there is going to be another study soon right after this.

Mr. Markey. And is the same thing true for the problem with the electronic throttle control system in your vehicles? Do you know what's wrong there?

Mr. Lentz. That's what I'm talking about. The electronic -- the ETC is the electronic control system.

Mr. Markey. You don't know what's wrong there either?

Mr. Lentz. Again, we have not seen failures. It has been looked at in Japan in the past.

Mr. Markey. If there is no possible problem with your electronic throttle control systems, why do you need to find a way to override the electronic throttle? If there is no problem, why do you have to find a way to override?

Mr. Lentz. I think you always have to keep your eyes and ears open in the event that there is something.

Mr. Markey. But you can't have it both ways. You can't say there is no problem but you are trying to find a way to override something that is not a problem. It leaves people with the impression that there must be a problem.

Mr. Lentz. That's why you have to continually test and test and test in the event that something develops. It could be a change in EMI. It could be a number of different things that we have to continually test and verify.

Mr. Markey. I appreciate that. But I just wish that there was a little bit more humility here with regard to what you don't know, that you just say you don't know. And then the public, as

they're driving around, carries that kind of cautionary warning with them as they're driving, pending the completion of all of your studies. Thank you, Mr. Chairman, very much.

Mr. Stupak. Thank you, Mr. Markey. Next for questions go to Ms. DeGette.

Ms. DeGette. Thank you, Mr. Chairman. Mr. Lentz, I don't know if you saw our opening statements or the previous panel's testimony, but I probably hold the record among the committee members because I have three Camrys. So I am very, very concerned that we get this right, just like you are for your family.

Mr. Lentz. Thank you.

Ms. DeGette. I want to ask you a couple of questions. The first one is, you just told Mr. Markey that this is not the first time that you folks have looked at the ETCS, and you folks provided a number of documents in response to our February 2, 2010, request. As far as you know, has Toyota provided all of the documents relating to previous tests of the ETCS?

Mr. Lentz. Again, I can't you if it's a test or it's just the development cycle of the ETCS.

Ms. DeGette. I mean, we know that you have provided thousands of pages of documents relating to the development. What we want to know is, are there additional documents relating to the testing of the ETCS that you just testified that you folks -- that it's not the first time that you have looked at it. And I want to know, are have we received all of the documents relating to

previous testing of the ETCS? Because that's what we care about here.

Mr. Lentz. I understand. I have to check. I don't know specifically.

Ms. DeGette. If there are additional documents, will you provide us those to this committee?

Mr. Lentz. Of course. Of course.

Ms. DeGette. Thank you. Now the only document that Toyota has produced to us that we've seen that claims to address the phenomenon of sudden unintended acceleration is this February 2010 report that we've been talking about that was conducted by Exponent. My first question is, that report was commissioned in December of 2009 just 2 months ago by Toyota's defense attorney Bowman & Brooke, correct?

Mr. Lentz. Yes, I believe so.

Ms. DeGette. And how much money was paid -- I know Mr. Buyer would want to know the answer to this question. How much money was paid to Exponent to produce that report for your defense attorneys?

Mr. Lentz. I don't know. Do you guys know?

Ms. DeGette. Would you mind supplementing your response with that information? Was it over $1,800 as far as you know?

Mr. Lentz. I am sure it probably was.

Ms. DeGette. I am sure it is too.

Mr. Lentz. And my understanding is, we have given them an

unlimited budget to test as much as they can to find out about that.

Ms. DeGette. Unlimited. And I am glad that you have. But just as you wouldn't question the efficacy of what the previous witness testified to because he was paid a few thousand dollars, you wouldn't think that that would taint the scientific results of your experts either, would you?

Mr. Lentz. Well, and that's why we have an advisory board --

Ms. DeGette. Yes or no is a good answer for me.

Mr. Lentz. I can understand why you would feel that way, but --

Ms. DeGette. No. But you don't think that your people would be tainted any more than the last witnesses were by being paid some kind of a money, correct?

Mr. Lentz. No, no.

Ms. DeGette. Thank you.

Mr. Buyer. I would.

Ms. DeGette. Let me ask you this: The Exponent report was considered to be an interim report, correct? So they're still conducting tests, is that right?

Mr. Lentz. Correct.

Ms. DeGette. Will you provide the committee with the final test results when they are obtained?

Mr. Lentz. Yes. We are going to make that public.

Ms. DeGette. And when do you expect that to happen?

Mr. Lentz. I don't know.

Ms. DeGette. Now, it's my understanding that Toyota's counsel, Mr. Hester, who is sitting right behind you, told committee staff today that Toyota had, in fact, replicated Dr. Gilbert's tests and that Toyota was able to produce the same conditions without triggering an error code, is that correct?

Mr. Lentz. Yes. Exponent --

Ms. DeGette. And did Exponent do that test?

Mr. Lentz. Exponent did that test.

Ms. DeGette. And when did Exponent do that test?

Mr. Lentz. In the wee hours of the night last night.

Ms. DeGette. Last night. So this is new information for us.

Mr. Lentz. Yes.

Ms. DeGette. And I am assuming Toyota will be willing to share the results of that testing also with this committee.

Mr. Lentz. Yes, we will.

Ms. DeGette. Now in your opening statement, you have said that Toyota had done extensive testing in electronics and has found no issues. Do you wish to change or clarify this remark in light of the findings disclosed to the committee today?

Mr. Lentz. Again, I am relying on the representation from our engineering side in Japan that they have told me that they have done extensive testing. I have not physically seen it myself. I have not seen test results. I am relying on their information to me that they have tested it extensively.

Ms. DeGette. Okay. In light of these new revelations revealed by your attorney, Mr. Hester, that Exponent was able to replicate the same conditions as Dr. Gilbert last night, does that change your testimony today?

Mr. Lentz. I'm not sure I understand.

Ms. DeGette. Okay. Late last night, according to your testimony --

Mr. Lentz. Oh, okay. Now I understand. We will provide that. I will tell you -- again, I don't know exactly how Mr. Gilbert has done this.

Ms. DeGette. Are you disagreeing with Exponent who apparently was able to replicate the same tests?

Mr. Lentz. No. What I am saying is I am not sure if what Mr. Gilbert has done is necessarily something that's real-world that can happen. And I can also tell you that Exponent was also able to do this on a competitive vehicle with the same result. So this is not necessarily something unique to Toyota. It may be unique to his test paradigm.

Ms. DeGette. Okay. Now I just have one last question for you. I would assume in light of the questions raised by Dr. Gilbert's testimony today as well as the witnesses Mr. and Mrs. Smith and we have a lot more anecdotal information -- I have got this couple in Colorado that I have been talking about and on and on and on -- I am going to assume that Toyota is going to take this seriously, that they're not going to deny that these

acceleration issues could be happening because of the ETCS and that they're going to expeditiously investigate this and are going to provide the results to this committee. Would that be a fair statement of your intentions?

Mr. Lentz. Yes.

Ms. DeGette. I look forward to hearing from you. Thank you.

Mr. Lentz. Thank you.

Mr. Stupak. Thank you, Ms. DeGette. Mr. Doyle for questions, please.

Mr. Doyle. Thank you. And Mr. Lentz, thank you for all the questions that you've answered. So you heard the testimony of the first panel, and Dr. Gilbert sounds like a pretty reasonable guy. And you just found that your testing company Exponent was able to duplicate what he did. Doesn't make a whole lot of sense -- and I think that Joe Barton said the same thing -- that you guys talk to Dr. Gilbert when the hearing is over, probably offer him a little more than $1,800 and ask him to come down to Toyota or with Exponent and the three of you sit together and see if there is something -- what's the downside to testing this gentleman's theory here?

Mr. Lentz. There is no downside. That is why I don't want to downplay what he has done. Again, I am not sure about his testing paradigm, but we welcome anyone that can find any issues with our electronics. I mean, if there is a problem, we want to find it, and we want to fix it. So yeah, there is no problem with

him getting together with Exponent.

Mr. Doyle. It is in your best interest to find -- I mean, no one has more to lose than you and your employs and your dealers to not fix this problem. I mean, you should have every incentive -- and I believe you do want to fix the problem. Your company has a very good reputation and it's been put into question. You know, perception is reality. We know that in our business. If the public thinks that your car isn't safe, you need to go out of your way to prove that it is.

Mr. Lentz. Yes, sir.

Mr. Doyle. So I just think that before you leave Washington, you ought to get this guy's phone number, and he should be sitting down with your people and you ought to test his paradigm and see whether it has any merit.

Mr. Lentz. And what's important is, when I was at Exponent, I drove a vehicle as they did the test to short-circuit the accelerator pedal. So I had the sense and the feel of what happens when it gets into limp mode, how they can measure based on the scan device what happened. And that's why I just have to really understand as has Exponent what Mr. Gilbert did because my understanding is, we were splicing wires together.

Mr. Doyle. Well, if I were you, I would want to know what he did too. There is no good outcome from you not trying to get this problem fixed. It's not good for America. It's not good for all the people that work for your company here in this country and all

the people that drive your cars for you not to go the extra mile and test any theory that seems to have any merit to it.

Mr. Lentz. I agree 100 percent. And that's also why going forward anytime we have a reported incident of UA, we're going to send a swat team out there -- the goal is within 24 hours -- so we can learn as much as we can. That's also why it would be helpful if we could get full vin numbers from NHTSA. Because sometimes they get a complaint that we don't ever receive. And the current thing -- unless an investigation is opened up, we can't get that information. It would be very helpful to the entire industry, not just for us.

Mr. Doyle. Okay. Mr. Chairman, in the interest of time, I am going to yield back.

Mr. Stupak. Thank you Mr. Doyle. Mrs. Christensen for questions.

Mrs. Christensen. Thank you, Mr. Chairman. I want to take this opportunity to welcome the dealers and the workers in the audience. I didn't realize they were here when I made my opening statement. But I did say at the time that we wanted Toyota to fix this quickly, not only for the customers but for the workers and the families that depend on them having a job.

Mr. Lentz. Yes.

Mrs. Christensen. Mr. Lentz, how long have you been in your position?

Mr. Lentz. Since July of 2006. As an EVP then president and

then president COO but basically the same responsibility.

Mrs. Christensen. I read an article -- I don't remember what paper -- about a week and a half ago, maybe, that was really talking about the history that Toyota has in not responding to complaints. But it started out by saying that in the late 80s, Toyota would actually go to a customer's home and -- say your car has a problem, they would pick it up and they would take it and fix it.

By the late '90s, and beyond that, Toyota started maybe fixing problems that they found in future cars and not even telling the other customers about the problems and then we have the failures that have brought us here today. So that's a total culture shift over that period of time. Can you tell us what happened? I mean, what happened to the Toyota of the '80s to bring us to the Toyota of 2010?

Mr. Lentz. One comment before that is, there are dealers that still make house calls. My father who lives in Colorado, his salesman lives about 3 or 4 miles away and every time he needs service, the salesperson drops his demo off, picks up my dad's car and takes it in for service. So that does still happen. We're not totally out of the '80s yet. But I think what happened -- I think we lost sight of the customer. I think we -- I don't think it was a goal for us to grow faster but we did. We had a lot of customers who loved our product. Our loyalty rates were growing higher and higher, and our volume grew. The complexity of the

product line grew from the number of models to the number of engines to the number of transmissions to everything else that goes with it.

And I think we outgrew our engineering resource, and I think when that happens -- and we have strategies to deal with that, but the strategies didn't work. And I think as a result of that, we're suffering from that today. And I think the most important thing is, we lost sight of our customers. And I'll give you an example even in the floor mat issue.

In the very beginning, back in 2007, we recalled vehicles because of the all-weather mat. The mat was too thick, and there was risk it would bind up underneath the accelerator pedal. And it would happen if the mat wasn't properly put down. So from an engineering standpoint is if the mat's properly in place, it's no big problem, but we didn't understand a simple thing like how customers use a floor mat because in climates like this, people double-stack mats. They put their rubber mat on top of their carpet mat, not just in our cars but in others. We didn't understand something as simple as that.

Mrs. Christensen. And just to get one other question. I am really disturbed by what sounded like a real snap diagnosis -- I'm a physician -- in the case of the mats. When we're presented with a problem, we can almost diagnose it by listening to the history but we always look at every other possible cause before we really make a diagnosis and we start to treat. And you know that doesn't

sound like it happened here. In your business and in my profession, lives depend on the decisions that we make, and it's really important to really examine all of the possible things, do a rule-out for every other possibility. Can you assure me -- I hear you saying that it's not this electronic thing. Can you assure us today that not only with this but with every complaint, that you're going to do a complete diagnostic check?

Mr. Lentz. Yes. I can tell you that the company's processes from top to bottom are being evaluated and it's starting with the president of the company who is going to speak to one of the committees. He is responsible for a global quality committee. It's a brand-new committee that's going to look at just at quality and safety. And there are representatives from each of the large regions around the world that are on that. There is an independent advisory board that will report to that, to look over his shoulder.

Mrs. Christensen. What was the independent advisory board? We talk about people paying and stuff. How do you get this independent?

Mr. Lentz. You go out and hire safety and quality experts from outside of the company to oversee what's happening, to make sure that we're doing the right thing, and that's the North American region of that, and these committees are going to be announced by the end of March. They are going to be responsible for an independent, totally independent safety testing of the

throttle control system.

Mrs. Christensen. My time is up. Thank you, Mr. Chairman.

Mr. Stupak. Thank you. Ms. Sutton for questions, please.

Ms. Sutton. Thank you, Mr. Chairman. Mr. Lentz, I would like a little bit of clarification on some of the points that have been raised here today during your testimony. A few moments ago in response to one of the questions you were talking about that we welcome anyone who can find a problem so we can fix it, something to that effect. Is that accurate?

Mr. Lentz. Yes.

Ms. Sutton. When you say "we," who do you mean? We welcome?

Mr. Lentz. Toyota.

Ms. Sutton. Toyota International?

Mr. Lentz. Yes. Again, TMS USA is a distributor for Toyota in the United States. My group does not design or engineer products.

Ms. Sutton. And I would like to talk about that a little bit.

Mr. Lentz. Sure.

Ms. Sutton. Because you are the president of Toyota Motor Sales in the U.S., as was pointed out by Ranking Member Barton. Does Toyota Motor Sales make safety determinations? Does your department make safety determinations?

Mr. Lentz. No. What we do is we get feedback from a number of different sources. We get feedback from customers that call in

or contact us online. We look through the Internet. We look at NHTSA data. We look at a number of different sources. We get reports from our dealers. We have product reports, all of that information from my side gets put together in reports and they go to Japan to the quality side. So to say that I'm not involved in quality, I am from an antenna standpoint.

Ms. Sutton. Okay. But you also said during your testimony that the communication was pretty one-way with respect to safety and reporting back to Japan because you have testified here today in relation to Mr. Markey's questions about the alarms that were going off in other parts of the world, and we just sort of had -- we have a plea of ignorance that we didn't know here, and it might have made a difference in some of the accidents that could have been avoided. So I am a little bit perplexed by the idea. Does Washington staff, safety staff that deals with NHTSA report to you as the head of sales?

Mr. Lentz. No. No.

Ms. Sutton. Okay. Who does that safety staff that reports to NHTSA report to within your company?

Mr. Lentz. It reports to TMA Washington, D.C., office.

Ms. Sutton. Okay.

Mr. Lentz. So there is -- Mr. Inaba, who is testifying tomorrow is the chairman of Toyota Motor Sales USA, but he is the president of TMA. So that reports in through him, New York and Washington, D.C.

Ms. Sutton. So he is the person who is responsible for safety decisions in the USA?

Mr. Lentz. No.

Ms. Sutton. It's still in Japan?

Mr. Lentz. Still in Japan.

Ms. Sutton. Why would Toyota send the head of sales to discuss safety issues here today?

Mr. Lentz. I was invited to attend.

Ms. Sutton. Okay. All right. So it was a decision made by the committee, is that what you're -- you were invited by who to attend?

Mr. Lentz. By this committee.

Ms. Sutton. By the committee. Okay. Let me ask you this, because you said in your testimony -- "In recent months we've not lived up to the high standards our customers and the public have come to expect from Toyota." And we're all concerned about that, and there are two groups of people who I think that we've all expressed concern for. Most obviously the consumers out there who put their trust and faith and families in those Toyota vehicles.

Mr. Lentz. Yes. Yes.

Ms. Sutton. And of course, the workers, the workers who rely on Toyota to make a living and take care of their families. I guess that's why I asked you the question about the "we" because we've also heard a lot of confusing testimony about the electronic throttle control system. Six years ago, NHTSA compiled data

showing that Toyota Camrys with electronic throttle controls had over 400 percent more vehicle speed complaints than those with manual controls. So it's rather difficult to -- do you think that that's an acceptable sort of number to suggest that there isn't something to it? I mean, it's 400 percent more.

Mr. Lentz. There is no question it's a big number. But I think, again, we have to understand what those complaints are surrounding. I don't know if all of those are sudden acceleration incidences.

Ms. Sutton. Right. Well, why don't we know all of that? 400 percent. We might not know everything but when you say, "I don't know if all are," that's a big statement too. We must know more than that statement reflects.

Mr. Lentz. Well, I can't tell you -- again, if you are speaking off of the NHTSA database, unless those are investigated, I can't tell you just from the database exactly what's going on. And that's why it's important that we are able to get that information. And quite frankly, I would love to be able to get confidentiality agreements with insurance companies as well where they can supply us with that kind of information so we can see what's happening.

Ms. Sutton. Well, Mr. Lentz, the American people and the American market has been very, very good to Toyota. A lot of money has been made by the company in decades past. And so when we read, "I'd like to assure the committee and the American people

that nothing matters more to Toyota than the safety and reliability of the vehicles our customers drive. We are committed not only to fixing vehicles on the road and ensuring they are safe but to making our new vehicles better," and your testimony continues.

When we read that and then we hear the testimony about the safety decisions being made in Japan in a vacuum, isolating those who are selling these cars to our constituents and their families and who are having the workers and the dealers sell these cars, you know, it begs the question about why people would be concerned of where the facts match up with the testimony. And I yield back.

Mr. Lentz. I understand. That's why the process is changing where there is going to be a person from the United States that sits on the defect committee in Japan to be able to make those decisions, and if they don't agree with that decision, there is going to be a possibility for us to then appeal that decision. And it's not just in the United States but from around the globe, we'll be on that.

Ms. Sutton. Okay, Mr. Lentz. But I have to tell you, it comes very late. We appreciate that things get fixed and that is the goal that things get fixed and no more, you know, loss of life is suffered. But again, one has to ask, would it have happened but for some of the mistakes coming to light? And I am glad for the change. I hope it's enough. I yield back.

Mr. Lentz. Thank you.

Mr. Stupak. Thank you, Ms. Sutton. Ms. Schakowsky for questions, please.

Ms. Schakowsky. Mr. Lentz, are you asking us to believe that no one at Toyota USA knew about recalls in Canada? I mean, it's just strains credulity to --

Mr. Lentz. Again, specifically on the 2003 Celica, I don't know the specifics on that. I don't know if that was a vehicle that was recalled here as well. I don't know the specifics if that, again, was a certain floor mat issue that was unique to Canada. I just don't know details about that particular recall.

Ms. Schakowsky. Except that you gave before as a reason that these things are not shared. And it's just really hard to imagine that whether it was deliberately shared or not that given the fact that many Americans can see Canada from their house, that we did not know about the --

Mr. Lentz. Again, I can't speak specifically to that exact incidence. I don't know the details of what it was recalled for.

Ms. Schakowsky. In 2008, a woman named Guadalupe Alberto was killed when her 2005 Camry suddenly accelerated, jumped a curb and struck a tree. Her car didn't even have floor mats at the time. So why wasn't this incident further investigated then? It says -- I mean, we know as recently as November -- or you say in November of 2009, Toyota -- or at least up until then -- was still claiming that floor mats were the only problem.

Mr. Lentz. Again, I don't know the specifics of that

particular accident. I can look into it for you.

Ms. Schakowsky. That would be fine.

Mr. Lentz. But the floor mat issue came around earlier than that. The issue in November was really as we got into this issue of the sticky pedal that we learned about.

Ms. Schakowsky. Right. But here was a 2008 accident, and she didn't have a floor mat. But anyway, you know, we're all in the customer service business ourselves. We have constituent service, personnel in our offices. We take it very, very seriously. I heard you say that you apologized to customers for the problems with Toyotas. Did you apologize to customers who were treated like they were crazy when they made these complaints? Did you apologize to the Smiths?

Mr. Lentz. I have not spoken to the Smiths, but I am going to. Again, it was embarrassing to hear what happened to them. I don't know the specifics of the situation, but it's -- just to hear that, especially on the Lexus side of the business, that's a very unusual way for business to be done.

Ms. Schakowsky. It's a very unusual way. Let me quote to you from a letter that was sent to a customer. A 2005 Toyota Tacoma driver told your company that his truck accelerated by itself despite stepping on the brakes, slammed into four parked cars. Here was the answer: The throttle was inspected and moved freely without any binding and was found to operate as designed. The brakes will always override the accelerator, which may not

have been true at the time. You said you are making that change, but anyway, in order for this accident to have happened as reported, two totally separate systems, the brakes and the throttle, would have to fail at exactly the same time. This is virtually impossible. And that phrase, that sentence, "This is virtually impossible" seems to have been repeated over and over to your customers. You are in charge of sales. Is this any way to deal with customers, just to tell them -- absolutely impossible?

Mr. Lentz. No, it's not. And I have talked to our group that I am going to be involved in every event of unintended acceleration so that I know what happens. So you know, just overall customer complaints that come in, I get probably 20 or 25 complaints a week. Each and every one of those complaints I have to receive a buck slip back to know exactly what the issue was, what the solution was and whether the customer is satisfied or not.

Ms. Schakowsky. You also review -- I review letters that go out to my constituents. Do you review -- does someone in authority review letters that are sent out so that the credibility of the customer is not only questioned but just negated?

Mr. Lentz. I personally do not. I will find out. What -- is that a recent letter?

Ms. Schakowsky. Well, I am looking at three answers that use the same phrase about "virtually impossible." So I don't know the date.

Mr. Lentz. Okay.

Ms. Schakowsky. I am sure our staff has those and they can check the date on the letters. My time is up, but I hope you will also make sure that recalls that happen in other places become part of the calculation of how you respond. Thank you.

Mr. Lentz. Thank you.

Mr. Stupak. Mr. Braley for questions

Mr. Braley. Mr. Lentz, I want to begin by commending you for sharing your personal story of loss with the committee here today. That takes great courage. I would encourage you to share the story with the decision makers in Japan who are making the key decisions on product defects, product recalls, product retrofits and failure analysis because I think they need to hear that story from you.

Mr. Lentz. Thank you.

Mr. Braley. I also want to commend you for commending the dealers in this country who have done an extraordinary job responding to your recalls and performing retrofits and tying up their staff all over this country. Some of them are my friends and my constituents. So I appreciate your recognition of the sacrifice they're making. I want to focus specifically on the comment that you made on page 2 of your statement which you repeated here today where you said, We are confident that no problems exist with the electronic throttle control system in our vehicles. We have done extensive testing of the system and have

never found a malfunction that caused unintended acceleration. I am having a hard time squaring that with Toyota's 2002 technical service bulletin which noted that if customers complained of surging accelerators reprogramming their engine, which you mentioned earlier, was a way to fix that problem and that, sir, sounds like an electronic problem to me.

Mr. Lentz. I don't know that for certain because I can't tell you if it's a software issue, if it's a transmission issue. There are a number of different reasons for surges. It could be a high idle up that takes place sometimes when air conditioning kicks on, as an example.

Mr. Braley. But reprogramming the computer would not be a mechanical fix, would it?

Mr. Lentz. No.

Mr. Braley. And the other reality of that notice is that these 2002 to 2006 Camrys which were the subject of that technical service bulletin, you are not addressing the problem of the brake override retrofit with those models, are you?

Mr. Lentz. Camry, I would have to look and see what year it goes back to, but we are going back in the case of Camry.

Mr. Braley. All right. Now, one of the things you also mentioned in your statement was that in December you asked Exponent, a world-class engineering scientific and consulting firm, to conduct a comprehensive independent analysis of your electronic throttle control system with an unlimited budget. So

let's talk just a little bit about that. Your counsel who is with you today is with a very well known firm that defends not just Toyota, but other auto manufacturers in product liability and crash-worthiness cases all over the country. You agree with that, correct?

Mr. Lentz. Yes.

Mr. Braley. And I am in no way impugning them for their role, but I find it very odd that when you were presented with this challenge of getting to the root of this problem, you went to your defense firm to go make the contact to arrange for this independent testing.

Mr. Lentz. Again, our legal staff put together the request. I can tell you that that report in its entirety is going to be made public.

Mr. Braley. And we look forward to it, sir

Mr. Lentz. So if there are issues in it, it's going to come out.

Mr. Braley. Let's talk about the company you retain, Exponent. Because they are a successor corporation to a company called Failure Analysis Associates, which has done extensive work for not just Toyota but all of the big auto manufacturers and the motorcycle manufacturers on not only failure analysis, but also providing expert witness testimony. You are familiar with that?

Mr. Lentz. I'm not sure about the expert witness, but I know they have worked for other automotives in things like vehicle

stability control and other things that have been developed that have been great for the industry.

Mr. Braley. Sure. And one of the things that I can tell you is that I have a copy of a deposition that their chief technical officer, Roger McCarthy, provided in 1998. And in that deposition, he testified that Failure Analysis Associate, then known as Accenture, received between $30 million and $40 million a year for the work they did for the auto industry. Were you aware of that?

Mr. Lentz. No.

Mr. Braley. Isn't it true that Toyota has paid them over $1 million in the past for the work that they've done?

Mr. Lentz. Exponent?

Mr. Braley. Yes.

Mr. Lentz. I do not know.

Mr. Braley. But would you be willing to provide us with documentation of what Toyota has paid to Accenture not just in relation with this study that's being done or in relationship with Mr. Gilbert's follow-up analysis, but over the period of time that these recalls that are being considered or have been issued have been performed, can you do that?

RPTS COCHRAN

DCMN BURRELL

[4:05 p.m.]

Mr. Lentz. I am sorry, could you repeat the question?

Mr. Braley. Mr. Chairman, I would make a formal request that we get as much information as we can from Toyota International, Toyota North America, documenting the financial relationship between their company and Accenture or its predecessor, Failure Analysis Associates, not just in relationship with the study that was done that has been the subject of this testing?

Mr. Lentz. That is fine. We will do that.

[The information follows:]

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Mr. Braley. Now, one of the things you talked about was the fact that you were present during some testing that was done at Accenture.

Mr. Lentz. Exponent.

Mr. Braley. Exponent, yes. Is that something that you were part of when there was filming that was done to document the testing?

Mr. Lentz. No. No. I just wanted to go see how they test. I have never been in a vehicle that has gone into fail-safe mode, so I wanted to understand what it feels like from the consumer's standpoint, what fail-safe feels like as you are driving down the road.

Mr. Braley. Were you involved in any way in the analysis in terms of defining the scope of that project or how the results would be submitted?

Mr. Lentz. No. The only portion I was involved in was that when that research becomes available in its entirety, it would be made public. It would be made available to Congress and then NHTSA.

Mr. Braley. Did Toyota make a direct relationship for the performance of those services with Exponent, or was that something handled by Bowman and Brooke?

Mr. Lentz. I don't know.

Mr. Braley. Because when you indicate in your statement that

you requested them to do a comprehensive, independent analysis with an unlimited budget. I am just wondering whether there are documents that would define the scope of that request and the terms under which Exponent would be compensated for what they were performing. Are you aware of that?

Mr. Lentz. I am not aware of it, but I am sure it must exist.

Mr. Braley. Then I would also request that, Mr. Chairman, and I would yield back.

[The information follows:]

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Mr. Stupak. That concludes questions by members of the subcommittee. We will now go to questions by members of the full committee.

Mr. Buyer.

Mr. Buyer. Yes. As far as I know, Accenture has not been hired by you to do any engineering or testing, have they?

Mr. Lentz. Exponent.

Mr. Buyer. Right. Accenture is like an accounting financial firm, right?

Mr. Lentz. Yes. Right.

Mr. Buyer. You are being asked questions from a Democratic colleague about Accenture and I just want to make sure for the record it is clear.

With regard to the firm that you hired, Exponent, as far as I am aware, even the United States Government turned to this firm to help us come to the solutions as to why we lost the shuttle Columbia, is that correct?

Mr. Lentz. Yes.

Mr. Buyer. So this is not a fly-by-night firm. This is someone who is one of the best in the United States when it comes to problem-solving.

Mr. Lentz. Yes. We wanted to find the best. Again, there will be another review of the CTCS done by this independent study group. They may choose to go with them. They may choose someone

else.

Mr. Buyer. Now with regard to some testimony that you -- I wrote this down because it was bothersome to me. You said that with regard to testing that was done last night with regard to the methodology used by Dr. Gilbert on the first panel, you said "it is not a real world scenario."

So, can you explain that a little bit further? In other words, he did testify that he used manipulation. He told me that he did not cut three wires. But when you say that there was a methodology that is not a real world scenario, help me understand.

Mr. Lentz. Well, I think he said tapped in, which is how he gets into the harness. Our understanding is, and again, this happened just 12 hours ago, so I don't want to attack him without knowing exactly what his process was, but my understanding is he took the plug off the back of the accelerator pedal. There are six wires on the back of that; two that go to the sensor, two that go to the power, and two that go to the ground. And he tapped into the two that go to the sensor, and basically through some device tied those two together and then tied one of the power wires into another one.

So, again, it just doesn't seem as if that is something that may necessarily happen in the real world. And Exponent has tested what happens if you lose ground, what happens if the sensors break down, but in a very different way. So I would just like to understand his methodology and make sure that it is not the

testing paradigm that is causing this.

Mr. Buyer. So when ABC showed this, in order to have these results, your testimony would be that Dr. Gilbert had to induce fault by manipulation to create and generate an artificial voltage for the result for which he was seeking?

Mr. Lentz. Yes, and go around the sensor.

Mr. Buyer. So that normally isn't going to happen as I am driving one of your products down the road, would that be correct?

Mr. Lentz. I believe so. Again, I am not an engineer. That is what I need to study through Exponent, because they did the same study.

Mr. Buyer. All right. Earlier I made the comment about I think the American public, we have seen what happens when NBC Dateline staged a staged crash between two trucks to claim that General Motors' fuel tank design caused fire on a crash test on television, and we were all pretty upset about it. So now what we have is a repeat scenario with regard to ABC, also using a manipulation, not using a real world scenario. So that type of thing can be left to the credibility of the viewer and the American public.

Now I am going to shift. The reason I am going to shift is let's go back to Columbia. When there is a crash in America and we have a concern, we go to the product. So Exponent looks at Columbia and tries to gather as much information as they possibly can. Data and what is left.

Mr. Lentz. Right.

Mr. Buyer. When there is an airline that crashes, NTSB will go in and try to recreate and rebuild that aircraft.

When I look at what Exponent is doing and I look at the report and I look at the thousands of vehicles that they are looking at, what bothers me is why wouldn't you, when an automobile that has been identified as this sudden unintended acceleration, why isn't that product pulled aside and ripped apart so you can understand what is exactly going on? Those are the thousand ones that if I were in your seat that I would be going after and applying the greatest minds of the world to understand.

Mr. Lentz. Yes. In many cases one of the field technical specialists or one of the quality specialists, they do go out. And if there is a component failure, they would take that component off and send it to the quality side to see what is going on. But in the case of the electronic throttle, if they don't get a code reading out that shows the failure and they can't recreate it, it is very, very difficult to be able to do that.

Now, they may take the throttle body off if it is cracked or if it is somehow defective. They will take a pedal off if it is defective. If an ECU is defective, they will take that off. But in many cases, that is what is so frustrating about unintended acceleration. It is very, very difficult to duplicate, and unless they can duplicate it they have no way of knowing exactly what has taken place.

Mr. Buyer. Thank you, Mr. Chairman.

Mr. Stupak. Mr. Gonzalez for questions.

Mr. Gonzalez. Thank you very much, Mr. Chairman.

Mr. Lentz, in my limited view of things, I always think in terms of how is the consumer protected, how is the best interest promoted. I have concluded that, one, it is the manufacturer's own moral behavior first and foremost. Then we go into the governmental regulatory oversight. And then we have our civil justice system. I am a great believer in the civil justice system. The problem is that is always after the fact, way after the fact.

So I am looking at the manufacturer's moral behavior and I am looking at the capabilities, proficiency and competency of the regulatory scheme that Congress has in place.

When any of this breaks down, Congress will move forward. And you heard Mr. Waxman say, look, we may need legislation, and that is a process that we are engaging in at this time. It is going to get hot and heavy and you are going to see all the different interests.

Last week I was on the radio, and when I simply said let us not rush to judgment, that goes to whether it is Toyota, whether it is GM or Ford. I don't care who it is, an individual or a corporation. The interviewer then said, are you apologizing for Toyota? So we have that issue.

Now, we have members of Congress who may be a little

aggressive in fulfilling their duties. You have letters going out that are saying it does sometimes appear, however, that the negative news is being encouraged by plaintiffs' trial lawyers, union activists and those interested in cutting into Toyota's market share.

That is the environment. It is not healthy. It is not good. And all these reasons which are totally wrong and ridiculous are being attributed to those individuals simply trying to do their jobs as Members of Congress. So I am hoping that this process will be fair.

But in the meantime, if there is a rush to judgment, this is the danger, not just to Toyota, but to everybody that will be similarly situated sometime in their lives, whether it is an individual, a company or a corporation, is that months from now we may discover that it wasn't electronic, and that all of the action taken was timely and diligent. But it really won't matter.

We have an old saying, and I said this the other day, everyone will remember the accusation; no one will remember the exoneration. And for a business in the United States, people are making decisions today on what car they are going to buy. By the time we figure out what the truth may be, that decision has been made. And I am going to tell you that I believe what is going on today will affect that decision. That is why we all have to be so careful in how we do this and that we are fair to all parties, whether it is going to be the consumer, the Smiths, or even

Toyota, but to be fair to everyone.

I want to know what you can tell Toyota owners today regarding the safety of their vehicles.

Mr. Lentz. What I can tell them, and I am not going to go through the detail of -- all of my family drive products. I would not have my loved ones driving products, recalled or not, if I didn't feel they were safe. So that is number one.

Number two is we have processes in place, new processes in place, that are going to ensure a lot more transparency and responsibility to make sure we make faster decisions that are the right decisions.

Everybody has defects. Everybody is going to have recalls. But how quickly we react to protect that consumer, how much the consumer sees us standing behind their product, that is what is most important.

I can tell you another thing. We have a lot of dealers sitting behind me. The way we start to build trust in our brand is through our dealers, because our dealers are the true contact with the customer, and they are doing a tremendous job in taking care of these situations. I mean, almost 800,000 customers already taken care of in about 20 days is an amazing number. And you will hear from the dealers that the customers are understanding. Sure, there are one or two customers in each dealership that are pretty upset at what is going on. But for the most part, our loyal customers, they know for the last 50 years

that we have stood behind our product, we have done the right thing for them.

Mr. Gonzalez. Let me ask this, because I think you touched on it. I have 35 seconds. But quickly, you drive Toyotas, your family drives Toyotas, everybody you care about drives Toyotas. Are you going to quit driving Toyotas?

Mr. Lentz. No, sir.

Mr. Gonzalez. You heard that Members of Congress on this committee drive Toyotas. I am not going to ask them whether they are going to quit driving their Toyotas. My suspicion is that they will not. So I think maybe that is the message that comes from his hearing today. We are going to be aggressive, we are going to be vigilant, diligent, we are going to get to the bottom of this. The question is to what degree can we protect the American consumer, and I believe that we are going to measure up to that duty and responsibility that we owe them.

I just again thank you for your testimony.

Mr. Lentz. Thank you. It starts with us.

Mr. Gonzalez. I yield back, Mr. Chairman.

Mr. Stupak. Thank you, Mr. Gonzalez.

Mr. McNerney has joined us, a member of the full committee. Questions, please, 5 minutes.

Mr. McNerney. Thank you. I appreciate you allowing me to address the hearing. Mr. Lentz, thank you for appearing today and taking some tough questions.

Addressing the safety issues we are discussing today is vitally important, but I would like to focus my questions on a related matter that I believe reflects on Toyota's disregard for its loyal customers and its loyal employees. I am referring to the decision recently to shut down operations at NUMMI plant in Fremont, California, which will cost us about 35,000 jobs in the State of California, and I don't believe that Toyota has done nearly enough to prevent this loss of jobs.

I have an opening statement that I would like to include in the record, Mr. Chairman.

Mr. Stupak. Without objection.

[The prepared statement of Mr. McNerney follows:]

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Mr. McNerney. Mr. Lentz, Toyota is currently experiencing major public relations problems and the public concern about safety failures is going to hurt your bottom line. California is one of your biggest markets and it is obvious that keeping NUMMI open will help rebuild your image. Wouldn't that be beneficial to Toyota?

Mr. Lentz. Our image is beneficial, but specifically NUMMI, I think we have to be clear that Toyota is not shutting down NUMMI. NUMMI is shutting down NUMMI. It is a separate corporation that was 50 percent owned by Toyota and owned by General Motors. And when General Motors moved into bankruptcy and the new partner became Motors Holding, Liquidation Holding, it was General Motors abandoning NUMMI that set this in play. That is the truth of the matter.

When they pulled out and they pulled out 30 percent of their volume, that plant was difficult to become commercially viable. It is a long way from our supply lines. We supply a --

Mr. McNerney. It is not a long way from your customer lines. Mr. Lentz, I understand that the Pontiac Vibe was only about 20 percent of production at NUMMI in 2008, with Toyota vehicles making up the rest of that production. Surely Toyota could modify its operations to account for a 20 percent drop in production. It seems to me that you are putting NUMMI out of business because of antipathy toward West Coast workers, not out of necessity.

Unfortunately, Toyota hasn't demonstrated that it has made any meaningful effort to explore possibilities that would keep NUMMI open, and I was asking you, do you expect Californians to believe that in the brief time between GM's announcement and your decision to close, were you able to definitively determine that it was impossible to maintain operations at NUMMI?

Mr. Lentz. Yes. It is not financially viable to do. It is a long way from our logistics lines. The volume, 20 percent is a pretty big number. I mean, California sells about 13 to 14 percent of the Nation's sales. That is a plant that has capacity for almost 400,000 vehicles that is building around 300, at the most.

You have got to remember that when this industry collapsed after Lehman, we had a 40 percent collapse from the peak of the marketplace in 2000-2001 to where we ended last year. There was tremendous overcapacity all across the United States.

And it is not something you take lightly, closing a plant. You look at the workers behind me. When that market collapsed, and we had 100,000 unassigned vehicles sitting at our ports that we didn't have dealers to be able to accept because the inventories were so high, we didn't lay these people off. We kept these people working because we know that they are a huge asset for us.

So, we don't take closing a plant or NUMMI doesn't take closing a plant lightly. We believe in our workers. They have

done a tremendous job in getting us through all this.

So, NUMMI is -- unfortunately, we are going to stop ordering product at the end of March. And we will do what we can to try to help the workers through transition, and hopefully, I don't know if another assembly can go in there or they can redevelop the property and create jobs through the redevelopment and whatever goes in there.

Mr. McNerney. I am thinking of your benefit as well as ours. I will leave you with this parting thought. You are having a public relations nightmare right now, and it may benefit you a slight amount to close a plant like that, but you are going to face a public backlash on the West Coast. Now, on the other hand, if you work with us to keep that open, it is going to be a real plus for your public relations issues. I just ask you to keep that in mind as you move forward.

Mr. Lentz. Just understand as well, we are going to do whatever we can to help through that transition. We are not legally obligated, but we are going to throw money into it to help through this. I just wish that our partner of 25 years would step up and do the same.

Mr. McNerney. That is all.

Mr. Stupak. Thank you, Mr. McNerney.

Let me just ask you a few questions to clarify the record a little bit, if I can. There has been a lot of testimony here and a lot of questions. Just make sure I am correct here.

The only independent analysis that you have had, when you spoke on the Today Show you said you have an independent analysis on your problems with the sudden acceleration, has been Exponent, correct?

Mr. Lentz. Yes, to my knowledge.

Mr. Stupak. And you were referring to that report of Exponent?

Mr. Lentz. Yes. Now, NTSA has also done studies in the past, but I don't know how robust they are. So I don't want to --

Mr. Stupak. But you don't have any knowledge of any independent studies they did?

Mr. Lentz. No, not to my knowledge.

Mr. Stupak. All right. And there has been no independent electronic throttle control system studies.

Mr. Lentz. Not at Toyota. There may be industrywide. I don't know.

Mr. Stupak. But after this situation.

Mr. Lentz. Not to my knowledge.

Mr. Stupak. With Dr. Gilbert here, he has come up with this, and apparently your -- Exponent's engineer has been able to duplicate it. Is it fair to say then when they duplicated it, they got the same result as Dr. Gilbert that the fail-safe system did not receive the signal to enact. So, in other words, the fail-safe system, whether it is an override -- however it happened, the diagnostic codes did not kick in to put in the

fail-safe system to get that braking going.

Mr. Lentz. Yes. I believe what he has done is designed a way to go around the override system. So whether it can happen or not --

Mr. Stupak. Sure. We don't know the source of it, but it is a bookend, as they said, to start the research.

Mr. Lentz. Yes.

Mr. Stupak. And that could be a value to Toyota in trying to restore service?

Mr. Lentz. Yes.

Mr. Stupak. You mentioned the SWAT team you are going to have at the end of March.

Mr. Lentz. Yes.

Mr. Stupak. Within 24 hours they will have information and be on site. Let me ask you this. Mr. Dingell asked and a couple of question have been about this event data recorder. The event data recorder, as you said, tells you what happens 5 seconds before an accident and 1 second after.

Specific requests have been made on the Auburn, New York, crash, which was a 2010 Camry. That ERB has been seized. Do you know where it is? Why isn't the information made available to NHTSA or anyone else? No one seems to know the result.

Mr. Lentz. I don't know. If I can get information on that crash --

Mr. Stupak. How about the South Lake, Texas, one. That was

that 2008 Toyota Avalon Mr. Rush brought up. It happened on December 26th. The same thing. It says conducted a site visit on 1/12 where they pulled the black box out, if you will. Where are your results on that?

Mr. Lentz. And they pulled the pedal off. I don't know. Because I know NHTSA was also down there with our engineers, but I don't know specifically what the result was.

Mr. Stupak. Or how about Mr. Jeff Papinski. He was from Minnesota. He had a 2007 Lexus ES350 and had problems with it and requested repeatedly from Toyota to give him the information off the black box, and he has always been denied.

If we are going to have this SWAT team and we are going to be more transparent and bring forward this information, why not on these fatal crashes, especially the ones I mentioned, why not disclose what happened on that black box?

Mr. Lentz. I think right now the issue is there is one tool in the entire United States, and I believe it is still in the prototype stages. So the final production tools we won't start seeing here until April.

Mr. Stupak. But standards for the black box were developed in 2006 by NHTSA that everybody has to have starting in 2012 and 2013, correct?

Mr. Lentz. Yes, it is in 2012.

Mr. Stupak. So if we have standards in 2006, you are still trying to develop a prototype?

Mr. Lentz. That is my understanding.

Mr. Stupak. So information off this black box then, if I wanted to get the information, if there is no mechanism in the United States, it has to go to Japan to get the information?

Mr. Lentz. Correct. Correct. It is a unique mechanism for our black box.

Mr. Stupak. And this defect committee, the U.S. may have a representative on it but the decisions are still going to be made in Japan?

Mr. Lentz. Well, the process of making a defect decision is there is a general manager of the quality group that has a committee with a number of different engineers and everyone else. That has always been in Japan with Japanese. That committee now is going to have people that will be seated on that from other parts of the regions around the world. The United States for certain. I don't know, I am assuming Europe will probably be there as well. So they will be part of -- they will be tied in to all the information available, into the decision process, and we will have the ability to appeal that if we don't believe in it.

Mr. Stupak. You will have input, but the decision will still be made in Japan?

Mr. Lentz. Well, the input will be made, but we will have the ability to appeal that decision that we do not have today.

Mr. Stupak. Let me ask on the black box there, where is that data stored?

Mr. Lentz. Pardon?

Mr. Stupak. Where is that data stored? If I get a black box out of the South Lake, Texas, accident, where would that data be stored? Would that have to go to Japan to get downloaded?

Mr. Lentz. No. I mean, if we have the scan tool, once these tools are available --

Mr. Stupak. Right now, because you don't have the scan tools.

Mr. Lentz. I don't know if Japan has tools or not. If we are in prototype stage, I am assuming that it is a global prototype stage. I don't know that for certain. But I do know in April we are slated to receive about 100 of these.

Mr. Stupak. All right. That will be in April. Okay. If you receive personally, you say you receive 20 to 25 complaints a week. Are any of them on unintended accelerations?

Mr. Lentz. I have got to tell you, in the last 3 years, I have seen them on surges, but I don't recall any one that was on an unintended incidence.

Mr. Stupak. Could you provide us an example of some of those surges that you personally handled?

Mr. Lentz. Sure.

[The information follows:]

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Mr. Stupak. Mr. Burgess, did you have any questions?

Dr. Burgess. I think it has already been addressed, but I just would like for you, Mr. Lentz, or Toyota to provide the committee your analysis or Exponent's analysis of when they do the testing, the retesting on the Gilbert thing.

I would just echo about the black box. South Lake is right outside of my district. It was a very tragic accident right after Christmas where a car went through an intersection and ended upside down in a pond and all the occupants died. There is some question as to whether or not there might have been a medical emergency involved in that. But I think the black box in addition to the other physical evidence, the brake pads and that sort of thing, will be very instructive for your group and, of course, instructive for us as well.

So, as this information on these look-backs, if you go out and get the car from Tennessee and your engineers come up with a decision on this, I actually think it would be very useful that this committee would have that information as early as possible after you get that.

Mr. Lentz. Surely.

[The information follows:]

******** COMMITTEE INSERT ********

Dr. Burgess. Heaven help us if there is another uncommanded acceleration. But get that car. The first thing that has to happen is somebody has to look at that car and figure out what is going on.

Mr. Lentz. I appreciate it.

Mr. Stupak. We are about to wrap up. I see Mr. Engel is here. Did you have a question, Mr. Engel, of this witness? You are a member of the full committee.

Mr. Engel. Thank you, Mr. Chairman. I think a lot of the questions have already been asked. But when I was asked by the media yesterday what question was I going to ask, I said that I would ask what did you know and when did you know it and what do you still know that we don't know.

I have listened to the hearing, and, Mr. Lentz, all I can say is that I hope you can appreciate that we are very skeptical, because it certainly seems if you just look at the chain of events that there was an attempt to kind of sweep everything under the rug. And I am still not sure that the question has been reasonably answered in terms of, you know, you talk about these six vehicles that you tested. But why would not your first inclination be to test the vehicles that accelerated?

When I heard Mrs. Smith earlier on, on the first panel, and she talked about how it just went 100 miles an hour and she couldn't do anything to stop it, wouldn't it have just been

logical to take that car and others like that and just rip it apart? I know Mr. Barton asked you it earlier, but I am not sure I am satisfied with your answer.

Mr. Lentz. Again, I don't know the specifics, but it sounded as if she said that there was a technical person that was down there and did look at the car. So I can't tell you -- if they didn't see anything, that is probably why they didn't tear it apart. If they would have seen a component failure, I am sure that component failure would have come off that car and we would have received it. Again, it may have happened. I don't know. I don't know the specifics on her accident.

Mr. Engel. But it wasn't only her car. There were others that gave similar stories, and for how long was Toyota saying it is mats, floor mats, or rugs or sticky pedals, when it just would seem clear by her story, I am sure there are others like her, that it wasn't that at all.

Mr. Lentz. It may not be. There are so many different causes. They are very broad, they are very rare, and in some cases they are just very, very difficult to duplicate. That is the frustrating part about researching what happens on some of these instances, especially if there is something that is going on with the throttle, if there aren't error codes and it can't be duplicated.

That was one of the challenges with the sticky pedal in the beginning, was by the time the consumer got it to the dealership

all the moisture had dried from the pedal and the pedal wouldn't stick, and you have got a consumer saying I am telling you, I know this thing has been sticking but by the time they get to the store it can't be replicated. And that took a while to understand exactly what was going on.

Mr. Engel. But in every case? Would that happen in every case? Surely once there were many different instances, there seemed to be a pattern, that you didn't have to be a rocket scientist to say, hey, wait a minute, maybe something is wrong. There is not only the acceleration, but we have heard about the steering and brakes and other things.

It just seems that if you look at everything, it certainly seems to me that there was an attempt to keep it under the rug and keep it under the table and let's not tell anybody anything and maybe it will go away. And, of course, with all the testimony, NHTSA is to blame as well. But I just don't think that Toyota handled it properly.

So let me just -- go ahead.

Mr. Lentz. Well, in the case of brakes, if you are talking about the Prius brake, we jumped on that very quickly and have taken care of that. And in the case of Corolla steering, it is being investigated right now.

So, yes, we have complaints on it. NHTSA has complaints. And we are digging into that right now to find out what is the issue and let's make sure the customers are happy with their

products and safe with their products.

Mr. Engel. So let me ask you this last question. When I was asked yesterday what would I ask you, I said what did you know and when did you know it and what do you know that we don't know yet. What do you know that we don't know yet? What is going to come out in the days and weeks? I know Mr. Toyoda is testifying in another committee tomorrow. What bombshells are going to come out that we don't yet know?

Mr. Lentz. God, I hope there aren't any more. I have had enough bombshells for one year. Let's get back to the good old days of 2009, and I didn't think I would ever say that.

Right now, we have to fix the process so these things don't happen again. I don't know what is behind the curtain. No one knows in the auto industry as manufacturers what defects you could have down the road, what challenges you have. So it is important that we have built-in quality and built-in safety so we don't have these issues. And that is why our processes are changing, to make sure that we get back to where we once were.

This was a company for 50 years in the U.S. that whenever you said Toyota or you said Camry, it was quality, dependability, reliability and safety. And we have stubbed our toe and we have to get back to where that once was, and we are going to do that.

Mr. Engel. Well, I would hope so.

Thank you, Mr. Chairman, for holding the hearing.

Mr. Stupak. Mr. Gingrey?

Dr. Gingrey. Mr. Lentz, very quickly, I could ask you a couple of yes-no questions like have you enjoyed being here today and do you want to take any more questions? I guess the answers would be yes and no. But seriously, I did want to ask you, do you think of this as a software or hardware problem?

Mr. Lentz. In the case of the ETC?

Dr. Gingrey. Yes.

Mr. Lentz. Again, based on our analysis of what we have seen, based on going to accident sites and checking these cars out, I don't think it is either right now. But Exponent has not tested the software yet, so that is yet to come. So if there is a software issue, if there is an issue about how independently these two processes are working, because that is the key to make sure that this thing works, we will know that.

Dr. Gingrey. But it could be either and you are going to get to the bottom of that?

Mr. Lentz. We have to get to the bottom of it. And it may be that the bottom of it is they find nothing and we have another independent group that goes in and researches again.

Dr. Gingrey. Mr. Lentz, thank you.

Mr. Chairman, that is all I have got, and I yield back.

Mr. Stupak. That concludes all questions of this panel. Mr. Lentz, thank you. We invite you to stay for the next panel. We have Secretary LaHood. We have five votes coming up. I am going to try to get the Secretary's testimony in and we can then go vote

and have a little recess. Thank you.

Mr. Lentz. Thank you very much.

Mr. Stupak. I am going to ask the media to move out of the way, please. Secretary LaHood is here. We would like to hear his testimony and get it done before we have to go vote.

Mr. Lentz, I see you are moving out. If you would keep on, we are trying to get the Secretary in. I know you are getting crushed there, but we are trying to move things along.

I would like to call our third witness for today, the Honorable Raymond H. LaHood, Secretary of the United States Department of Transportation.

Mr. LaHood, welcome. Thanks for being here.

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

Secretary LaHood. No. I am ready to be sworn.

[Witness sworn.]

Mr. Stupak. Thank you, Mr. Secretary. We look forward to your opening statement, and then after that we are probably going to have to run and do some votes.

STATEMENT OF THE HON. RAYMOND H. LaHOOD, SECRETARY OF TRANSPORTATION, U.S. DEPARTMENT OF TRANSPORTATION

Secretary LaHood. Thank you, Mr. Chairman, for the opportunity to be appear before you today to discuss the important issue of Toyota's recent safety recalls.

Ever since I was sworn in as the Secretary of Transportation 13 months ago, I have said that safety is the Department's number one priority. I would like to think that we have demonstrated that commitment time and time and time again.

When the terrible crash of the Washington Metro system claimed nine lives and injured dozens of others last summer, we quickly introduced legislation to give us Federal safety oversight of transit systems sometimes we don't currently have.

When Colgan Air Flight 3407 crashed in Buffalo, we learned right away what many of the problems were, and we did not wait a year for the NTSB to conclude its investigation before we acted. We began working with the aviation industry immediately to enhance airline safety and pilot training, holding 12 safety summits around the country. This spring the FAA will issue a new rule to combat pilot fatigue, and it has already been begun to overhaul pilot certification qualifications.

One of the hallmarks of my time as Transportation Secretary has been our work on distracted driving. For all of you with cell phones and BlackBerries and other electronic devices, I am on a rampage about people talking and texting while driving a bus, a car, a plane or a train. It is a menace to society and we recently exercised our authority to ban truck drivers from

texting.

The reason I say all of this, my number one priority has been and will be, as long as I am in this post, safety.

Now, for Toyota. The Toyota recall situation is very serious and we are treating it seriously. The three recalls involving Toyota are among the largest in automobile history, affecting more than 6 million people in this country.

I would like to say a word directly to consumers. If you notice that your gas pedal or your brake is not responding as it normally would, contact your Toyota dealer right away.

The recent recalls involve three issues. First, accelerator pedal entrapment by floor mats, which can lead to uncontrolled acceleration at very high speeds. It is important to take your floor mats out of the driver's side of your vehicle until your car has been repaired for this problem by a Toyota dealer.

Second, accelerator pedals sticking or returning slowly after being depressed. If the pedal is harder to depress or slower to return after releasing it, this could be the precursor to what is known as a sticky pedal. If your pedal has these symptoms, contact your Toyota dealer immediately. If your gas pedal becomes stuck for any reason, steadily apply the brake, put the car in neutral, bring it to a stop in a safe place and call your dealer.

Finally, with the Toyota Prius for model year 2010 and the Lexus HS250, if you experience a change in your car's braking performance, contact your Toyota dealer.

Now, I want everyone to know that the National Highway Traffic Safety Administration has the most effective defect investigation programs in the world. Known as NHTSA, its job is to investigate complaints and to look for defects. It receives more than 30,000 complaints from consumers every year and reviews every one of them quickly and carefully.

Over just the past 3 years, NHTSA's defect and compliance investigations have resulted in 524 recalls involving 23.5 million cars. Of the 100 investigations NHTSA opens in an average year, there are currently 44 open defect investigations, five in which involve Toyota.

Every step of the way, NHTSA officials have pushed Toyota to take corrective action so that consumers could be safe. Unhappy with Toyota responsiveness to our safety concerns, the Acting Administrator of NHTSA, Ron Medford, and two associates flew to Japan in December of 2009 to clarify for Toyota management what the company's legal obligations are to find and remedy safety defects in vehicles sold here.

In January, our new Administrator of NHTSA, David Strickland, and Ron Medford, now our Deputy Administrator, told the President of Toyota North America in no uncertain terms that we expect prompt action following the disclosure of the sticky pedal. Toyota publicly announced that recall 2 days later.

I have also talked personally to the President of Toyota. With potential fatal defects on the road, NHTSA has pressed hard

to expedite these safety fixes. If NHTSA had opened a formal investigation and Toyota had resisted a recall, this would have consumed an enormous amount of time and resources, in effect extending the period in which owners of affected vehicles were at risk. By engaging Toyota directly, and persuading the company to take action, the agency avoided a lengthy investigation that would have delayed fixing for a year or more.

Last week I announced that we are investigating whether Toyota acted quickly enough in reporting these safety defects to NHTSA as well as whether they took all appropriate action to protect consumers. We have asked Toyota to turn over a wide range of documents which will show us when and how they learned about these safety problems. NHTSA will continue to make sure Toyota is doing all it has promised to make its vehicles safe. We will continue to investigate all possible causes of unintended acceleration.

While the recalls are important steps in that direction, we don't maintain that they answer every question about that issue. Some people believe that electromagnetic interference has a dangerous effect on these vehicles. Although we are not aware of any incidents proven to be the cause by such interference, NHTSA is doing a thorough review of that subject to ensure safety. If NHTSA finds a problem, we will make sure it is resolved.

Recently I spoke by phone with Mr. Toyoda. He assured me that Toyota takes U.S. safety concerns very seriously and that

safety is the company's top priority. I intend to hold him to that.

Finally, I want to remind everyone there is a reason we investigate safety defects and there is a reason we push auto makers to do the right thing. I listened to the 911 tape of the Saylor family's harrowing last moments. Mark Saylor, a California highway patrolman, died last year along with his wife and his daughter and his brother-in-law when the accelerator got stuck and the Lexus they were driving crashed at more than 120 miles an hour. That is a horrible tragedy and one I hope that no other family has to endure.

Now, Mr. Chairman, I know that you all have to go vote, and I am certainly willing to stay and answer all the questions that any member wants. I want the committee to know, I was sworn in on January 23rd, 2009. I will take a back seat to nobody on safety. I have done a lot. We have done a lot. So I will try and answer every question as specifically as I can during my time as the Secretary. And for those that I don't know the answer to prior to my tenure, I will be happy to get all the information possible for the record.

Thank you very much.

[The prepared statement of Mr. LaHood follows:]

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Mr. Stupak. Thank you, Mr. Secretary. You are right, we do have votes. We have five votes. We are going to be in recess until 5:30. I would appreciate it if you would stay. We would look forward to your answering questions then. If you want to walk to the floor with us, you are more than welcome to do so.

[Recess.]

RPTS CALHOUN

DCMN MAGMER

[5:46 p.m.]

Mr. Stupak. The committee will be back in order.

Mr. Secretary, thank you again for your patience. Thanks for being here. You can tell by all the interest in the committee members who are not even members of the subcommittee that have stayed throughout this hearing to ask questions. A lot of interest here on this Toyota matter and what has happened and Toyota's role. I know you have only been there for about a year.

One of the things that struck me -- and let me just ask and say this politely -- but it seems like all decisions on Toyota, especially dealing with safety issues, the decisions are made in Japan. You mentioned in your testimony you sent Mr. Strickland and others to Japan to talk to Toyota representatives, or I should say the head of Toyota, which just further emphasizes the point everything is made in Japan.

The problem is here in America. Why couldn't we have dealt here with it in the United States? Or is everything compartmentalized that strict with this organization or company that the decisions have to be made in Japan?

I find that a little odd, that is all. Do you care to respond to that?

Secretary LaHood. I plan to meet with Mr. Toyoda, who will

be in the United States this week. He has agreed to meet with me. One of the things I am going to express to him is they have some very good people in North America, some very good people, but perhaps they need to look at their business model. And what I mean by that is that when their good, experienced, qualified professional people in North America make recommendations, they need to listen to them.

Mr. Stupak. Did your investigation show --

Secretary LaHood. Our people met with the North American people, but we decided to go directly to Japan.

Mr. Stupak. Why? Because they could not make a decision here in the United States?

Secretary LaHood. Because we felt that maybe the people in Japan were a little bit safety deaf. We wanted to give them an opportunity to hear directly from us that this --

When I talked to Mr. Toyoda, I said three things. The first thing I said is this is a very serious matter for your company and America. I want you to know that DOT is taking it seriously. We are not going to sleep until every one of your cars is safe for Americans to drive. And then I invited him to come to America.

Mr. Stupak. I called you after those articles appeared, and we never had a chance to talk. But you have been proactive in trying to get in front of this.

One of the concerns that I have and has come out is that 70 percent of this sudden unintended acceleration, we still don't

have an answer for. In fact, I think, according to all the documents from NHTSA and also from Toyota, their database, that only 16 percent of these sudden accelerations are really addressed with the floor mat and the sticky accelerator, if you will. The electronics seems to have to have some part of it on this remaining 70 percent.

Secretary LaHood. As I said in my testimony, we are going to do a complete review of the electronics. We will meet with the folks from Southern Illinois University, take a look at the results of what they have had to look at. We will look at what the Toyota folks have done with the people that they have hired. We are going to get into this. We are going to get into the weeds on the electronics. We feel an obligation to do that, because we get 30,000 complaints a year, and we take every one seriously. We don't just set them off to the side. We look at every one. And when we see a few start to stack up, then we really get into it. We are going to get into the weeds on the electronics. I commit to you we are going to do that.

Mr. Stupak. How about this event data recorder that records information 5 seconds before an accident, 1 after?

Secretary LaHood. We have a review of that going on right now.

Mr. Stupak. But it says your NHTSA investigators have been at some of these accidents sites like the Southlake, Texas, one on January 12, 2010. They were there. The one that happened up in

Auburn, New York, that one was also NHTSA folks were there. In fact, it says investigators from NHTSA took the black box on November 27. What did your investigators do with the black box if you don't have any way to read it?

Secretary LaHood. Our challenge is to investigate these, to look into them, and to render some judgment about it.

Mr. Stupak. Would your investigators have taken the black box?

Secretary LaHood. You know, Mr. Chairman, I don't know the specifics on that incident, but I will check it out.

Mr. Stupak. I got that from your outline that NHTSA provided us, all the actions you took.

Secretary LaHood. Okay.

Mr. Stupak. Do you have any knowledge of them taking that?

Secretary LaHood. I don't.

Mr. Stupak. Dr. Gilbert, who testified earlier today, indicated that he was able to bypass the system and the diagnostic code would not come up. It was a bookend, as we call it, one of the things that could happen on the sudden acceleration. He said he notified NHTSA of the test results, what he found, and tried to contact NHTSA. All he got back was a form, an e-mail form saying thank you for contacting us. Can you assure us that NHTSA is going to follow up with Dr. Gilbert?

Secretary LaHood. You have my 100 percent commitment that we will get in the weeds on that. We will talk to anybody that wants

to talk to us. We will look at studies that have been conducted already, whether it is SIU or studies that have been done through the Toyota program. We will figure this out. I know that all of you think this is a serious issue and so we think it is a serious issue.

Mr. Stupak. Well, we know how serious you think it is because you had them stop building cars here in the United States, certain models. Are they still building those cars? Are they still on a pause? What is the status on Toyota?

Secretary LaHood. On what, again?

Mr. Stupak. On building some of the cars, some of their models in the United States. They stopped after your intervention. Have they started reproducing those cars again?

Secretary LaHood. That I don't know. I will have to get back to you on that.

[The information follows:]

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Mr. Stupak. Does NHTSA need the responsibility -- I should say, does NHTSA need to accept some of the responsibility? We heard from the Smiths today about how they felt that NHTSA just came out and tried to convince them that it was the floor mats. Is there some responsibility NHTSA shares in this whole situation?

Secretary LaHood. If you look at my testimony, Mr. Chairman, no one has talked more about safety in Washington, D.C., and around the country than Ray LaHood since January 23, 2009. We had 12 safety summits on regional jets. We had a day and a half distracted driving conference. We stepped up on a tarmac rule so that people don't have to sit on airlines more than 3 hours. We suspended air traffic controllers when there was a crash over the Hudson River between a helicopter and a small plane. And we also investigated when the pilots overflew Minneapolis by 150 miles.

We are not sitting around on our hands. Safety is our number one priority. We take it seriously. We take every complaint seriously. We look at it. We open investigations when we think it needs to be done.

Mr. Stupak. No one doubts your aggressive enforcement action. The problem we have up here, if we have all these complaints on sudden surges in this vehicle, Toyota vehicles, and we have got 70 percent unresolved, how do we resolve that 70 percent that is still unaccounted for, unexplained, and we have millions of these vehicles on the road?

Secretary LaHood. Well, we will continue our investigations which we have going on. There are currently investigations going on. There are recalls going on, many of them sparked by the Department of Transportation and NHTSA, initiated by us.

Mr. Stupak. Which can't continue the investigation as NHTSA has, when in 2004 when you did your report, your ODI, as they call it, March 23, 2004, you closed it on July 22, 2004. During that period of time there were five fatal accidents involving surges, and basically the NHTSA investigators said it doesn't count because we are only looking for momentary surge. Those surges or that accelerator stayed on too long. So we just disregarded it. It almost looked at it with blinders on. When we do this investigation, get that 70 percent, we can't do that.

For the love of me, I was an investigator. You do an investigation, you get five fatal accidents come in and you can't explain, and people think the car went really fast and there might have been a surge in acceleration, and you don't take into consideration your report, that is just poor work.

Secretary LaHood. Well, that won't happen on my watch.

Mr. Stupak. Very good.

Mr. Burgess.

Dr. Burgess. Thank you, Mr. Chairman.

Secretary, welcome to our committee. My staffer is going to bring you something to look at.

While she's doing that, I have been trying to get an

unredacted report of the NHTSA report on the Mark Saylor accident. I realize that the appropriate person to ask is the head of NHTSA, but we don't get to ask the head of NHTSA in this committee. I have got you. So I'm going to ask you. Can my office have made available to it an unredacted NHTSA accident report on the Mark Saylor accident?

Secretary LaHood. If it's legally possible for us to do it, absolutely.

Dr. Burgess. You can see my problem when I try to read the report. Paragraph five is blacked out. Now perhaps that is something that is not pertinent to me in general circulation or open source. I'm willing to come down to your place and review it under armed guard, if necessary.

But it raises questions back home. I mean, I have people on the radio talking about why can no one see an unredacted report. Again, if it's something that relates to the accident that would be harmful to the family to have out in general circulation, I understand that. But I would certainly as a Member of Congress who does have some clearance to look at things, I think that should be made available.

Secretary LaHood. Let me just say, Mr. Burgess, what I will do is ask our general counsel to brief you on this, on what we can say and what we can't say, and we will try and do that very quickly here.

Dr. Burgess. As you know, once the information is denied to

you, the fantasy can become more extreme than the reality. It would be helpful to me to know what has been redacted from that.

On the issue of -- and I appreciate that you have only been there for 1 year. I appreciate your comments about safety being a top priority.

She brought to you a graph showing uncommanded accelerations in the Camry vehicle. I believe this is a NHTSA-produced document. Clearly, without getting into great detail, this was a change about 2001 or 2002 where the number of incidents were very low and then suddenly it goes high and stays high. My understanding from Mr. Lentz's testimony is that coincided with the time that the electronic throttle control became marketed upon those automobiles.

I would just ask the question, should there have not been some curiosity at some point as to why this is happening now at a level previously unprecedented? What has changed in the manufacturing? The electronic throttle control is one thing. Were there other things that changed in the manufacturing? If safety is going to be job one, it can't take us that long to investigate these things, and it certainly can't take a very dramatic and tragic accident to spark the investigation.

So the only point I would make from that, again, a NHTSA-produced document. I realize that personnel does change from time to time. But we have to keep that -- obviously, that has to be foremost in our minds.

Now from the NHTSA documents that we have, it looks like they have received 113 vehicle owner questionnaires alleging sudden and unintended acceleration related to the throttle. The Office of Defect Investigations believes that only 14 of those questionnaires were relevant to the throttle control. So how does that office narrow that number down? How are cases included or excluded where only about 10 percent of the cases that were brought to NHTSA attention were actually thought to be an uncommanded acceleration?

Secretary LaHood. By looking at the documents, by interviewing people, by talking to people, and then by making a judgment about whether it's something that has validity or standing.

Dr. Burgess. In light of some of the things that we've heard in our testimony today, should we go back and look at those other nine out of ten that were deemed not to be -- not to represent true uncommanded accelerations? Perhaps they deserve a closer look or closer scrutiny.

Secretary LaHood. Well, I take your point on that. I go back to what I said to Chairman Stupak, that we are going to really get in the weeds on the electronics. I assume that we will take a look back at some of those.

Dr. Burgess. I guess just very recently, within the last day or two, your Inspector General from the Department of Transportation announced an audit initiated on NHTSA's Office of

Defect Investigations. The audit is going to build on earlier works concerning implementation of the TREAD Act. The specific understanding is going to focus on recent actions taken by the agency regarding Toyota recalls. Obviously, this is something you felt was necessary to do.

Secretary LaHood. Look, the Inspector General does his own thing. He's an independent operator. He doesn't take his cues from me. He decided to do this I think either at the request of Congress or because his people thought it was something to do. He doesn't consult with me on these things. He lets me know, but he doesn't consult to see if I agree with him or not.

Dr. Burgess. Has he let you know the scope of the investigation, what it will include?

Secretary LaHood. He has.

Dr. Burgess. Can you share that with us?

Secretary LaHood. I think he posted it on his Web site, which would be our Web site. I think it's up.

Dr. Burgess. When that report becomes available --

Secretary LaHood. He will make it available. As soon as it's complete, he puts it up on his Web site.

Dr. Burgess. Now everything that we have heard today on the issue surrounding the Toyota uncommanded acceleration gives people the impression there's a lot of problems with this product. If you actually list things down, the number of problems per vehicle mile -- or percent of market share I guess is a more appropriate

measurement -- Toyota is not really high on that list, are they?

Secretary LaHood. In terms of?

Dr. Burgess. The number of incidents or percentage of market share. I mean, a NHTSA document that is available actually ranks Toyota number 17. There are 16 other automobiles that have more problems per percent of market share.

Secretary LaHood. If you look at the 30,000 complaints we receive and you look at the investigations we do and then you look at the recalls, the vast majority of them are not with Toyota. They are with other brands of automobiles.

Dr. Burgess. But we are talking today about an increased level of scrutiny because of perhaps some of the uncommanded accelerations were missed in earlier investigations. I guess the only question is, are you going to go back and look at some of those other vehicle manufacturers that are higher on the list for these types of incidents?

Secretary LaHood. Yes.

Dr. Burgess. Have you already initiated that?

Secretary LaHood. We are just -- as I said, we are just starting our review and our look back.

Dr. Burgess. Well, Mr. Chairman, when that data becomes available, again, we'd appreciate you sharing it.

Secretary LaHood. Thank you. We will.

Mr. Stupak. Thank you, Mr. Burgess.

Chairman Waxman, please, for questions.

The Chairman. Thank you very much.

Secretary LaHood, our review shows that you had 2,600 complaints concerning this sudden unintended acceleration but that NHTSA only looked at the electronic systems one time, and that was in 2004. Is that correct?

Secretary LaHood. Yes, sir.

The Chairman. Do you think that the 2004 investigation was sufficient?

Secretary LaHood. I think that under our watch we are going to get into the weeds and we are going to have a complete review on the electronics.

The Chairman. Looking back from here, there was only one review, and that was in 2004. Would you say that was sufficient? I know you are planning --

Secretary LaHood. No, no. The answer is no.

The Chairman. We have looked at the record, and the 2004 investigation was not comprehensive or in depth. It was headed by an individual who in an e-mail to Toyota officials said that he was not very knowledgeable about electronic throttle systems. It excluded the vast majority of complaints involving sudden unintended acceleration, including the most dangerous type, high-speed events in which the brakes are unable to stop the vehicle.

It appears that NHTSA never independently evaluated Toyota's claim about the adequacy of its systems, and there's no evidence

that NHTSA did its own testing of electronic throttle control systems. Your staff told us that you had no electrical engineer on staff to help you assess the problem, and they never hired an outside electrical engineer.

Now I know you weren't around then, so I don't blame you, but I am concerned that I haven't heard you express any disagreements with any decisions made at the agency before your time. Am I stating that incorrectly? Do you feel the agency has done what it should have done prior to your being there?

Secretary LaHood. What I have tried to do is be forward looking, Mr. Chairman. I have spent the last year talking about safety. I have traveled the country. I have been to 35 States and 80 cities. Everywhere I go I talk about safety, whether its car safety, airplane, train safety. The train crash in California was caused by a distracted train driver, and that is why we decided to take on that cause. We will continue to do that.

The Chairman. Mr. Secretary, I applaud you for your efforts in what you have told us about how high a priority safety is, and I'm pleased that you're going to take that position and try to steer the department, the National Highway Traffic Safety agency, under your watch to do the kind of job that needs to be done. I think that part of it is leadership.

But I think there needs to be a fundamental reform. Some of that you can do administratively and some may require legislation. We will be here to help you. We want this agency, as you want, to

do the job of protecting the safety of the American people.

I must say, as I look at the record, it's not a happy one, it's not a successful one, and it's not the one that you and I want from that agency. Let's both look forward and make the changes to assure the American people that that situation is going to be different in the future.

Secretary LaHood. Well, Mr. Chairman, I would say this. I don't know of another Member of Congress while I was serving or since I have left that has been more concerned about these issues than you have. We really appreciate your support on this. We may be coming to you and asking for some legislative remedies, and I know you will be there for us. That may be happening sooner rather than later. And if you have legislative remedies, we want to work with you on this.

The Chairman. Mr. Rush is the Chair of the subcommittee with the legislative jurisdiction. We are going to work with him and with you to do what we need to do in terms of the law to give you the powers and give that agency the powers to do what needs to be done. I know you're determined to accomplish that goal. So I look forward to working with you on that.

Secretary LaHood. Thank you.

The Chairman. Thank you, Mr. Chairman. Yield back.

Mr. Stupak. Thank you, Mr. Waxman.

Mr. Dingell for questions, please.

Mr. Dingell. Mr. Chairman, thank you.

I'd like to welcome my old friend Mr. LaHood back.

Mr. Secretary, welcome.

Secretary LaHood. Thank you, sir.

Mr. Dingell. Mr. Secretary, yes or no, to your knowledge has Toyota complied with the statutory and regulatory obligations, whether mandated under the TREAD Act or otherwise, in conducting its 2009 and 2010 recalls related to sudden unintended acceleration?

Secretary LaHood. I'd rather get back to you on the record, if I could, sir.

Mr. Dingell. All right. If you will submit a proper response at a time later.

[The information follows:]

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Mr. Dingell. Mr. Secretary, if Toyota has not complied with the statutory regulatory obligations related to these recalls, will you please submit for the record a description of how and what punitive action the Department of Transportation has taken as a result of this noncompliance.

Secretary LaHood. Yes, sir.

[The information follows:]

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Mr. Dingell. Now, Mr. Secretary, since 2001, how many reports of sudden unintended acceleration has the Department of Transportation received from Toyota Motor Sales USA, Inc.? Would you please submit a list and a description of each and every one of these reports for the record?

Secretary LaHood. Yes, sir.

Mr. Dingell. Do you know whether you have received all of these or not?

Secretary LaHood. I will submit that for the record.

[The information follows:]

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Mr. Dingell. All right. Mr. Secretary, again, yes or no, are the Secretary of Transportation and NHTSA administrator empowered under statute to visit foreign automakers in their home country?

Secretary LaHood. Yes.

Mr. Dingell. Mr. Secretary, yes or no, have the Secretary of Transportation and NHTSA administrators done so in the past?

Secretary LaHood. Yes.

Mr. Dingell. Mr. Secretary, would you describe such visits to the headquarters of foreign automakers as routine or commonplace?

Secretary LaHood. Commonplace.

Mr. Dingell. Commonplace?

Secretary LaHood. I mean, we try and make visits. Our NHTSA folks try and do it on a regular basis, yes.

Mr. Dingell. Is are there anything extraordinary here about you having the administrator or the acting administrator go over there while this investigation is going on?

Secretary LaHood. Yes. That was a special trip. That was not a routine trip. That was a special trip.

Mr. Dingell. Special trip. Why was this a special trip that you and the administrator made?

Secretary LaHood. We wanted to get their attention and tell them we are taking these safety issues seriously and they need to

take them seriously. And immediately upon return of our NHTSA acting administrator, they really stepped up and I think took our word on this.

Mr. Dingell. Why did you have to do this, Mr. Secretary?

Secretary LaHood. Well, I think they were a little safety deaf.

Mr. Dingell. Were they complying?

Secretary LaHood. I think that they were a little safety deaf.

Mr. Dingell. Pardon?

Secretary LaHood. I think they were safety deaf, and we wanted to create some hearing devices for them, so we took a big megaphone with us and we got their attention.

Mr. Dingell. So you're telling me that you felt it necessary to do this because of the safety of the American driving public, is that right?

Secretary LaHood. That is correct.

Mr. Dingell. Have you had to do that before?

Secretary LaHood. Not with Toyota.

Mr. Dingell. With anybody else?

Secretary LaHood. Not that I know of.

Mr. Dingell. So this is essentially unique.

Secretary LaHood. I will make sure I get that accurate for the record, but I'm not aware of it.

Mr. Dingell. Okay. Now, Mr. Secretary, are the reporting

requirements for early warning of possible vehicle safety defects different in Japan than in the United States?

Secretary LaHood. I will get back to you on the record for that.

Mr. Dingell. On the record. Very well.

[The information follows:]

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Mr. Dingell. Mr. Secretary, are the Japanese requirements in this regard more or less stringent than American requirements?

Secretary LaHood. I will let you know.

Mr. Dingell. All right. I assume that will be for the record.

Secretary LaHood. On the record, yes, sir.

[The information follows:]

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Mr. Dingell. Mr. Secretary, if the Japanese requirements are less stringent, is it your experience that this affects the manner in which Toyota evaluates potential defects in its vehicles and influences what information a company provides to U.S. regulators?

Secretary LaHood. I will put that on the record, sir.

Mr. Dingell. Very well.

[The information follows:]

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Mr. Dingell. Now, Mr. Secretary, you -- I don't know whether you heard the testify testimony of Mr. Lentz.

Secretary LaHood. I did.

Mr. Dingell. I found myself concerned. He said the decisions on these questions had to be made in Tokyo, and he couldn't do these decisions. Was that the reason you had to go to Tokyo to talk to the Japanese or, rather, talk to Toyota about the safety questions?

Secretary LaHood. Yes, sir.

Mr. Dingell. Because that was where the decisions were made.

Secretary LaHood. That is correct.

Mr. Dingell. Now is this a problem to you that you don't deal with Toyota the way you have to deal with other automobile makers?

Secretary LaHood. I told Chairman Stupak earlier that I think their business model for making decisions needs some adjustment.

Mr. Dingell. Well, but the adjustment has to be because of your problems in dealing with them. Instead of getting the decision made here in the United States, you have got to trot over there to Tokyo to have the he decision made. That doesn't seem to me that we're enforcing -- we're able to enforce the laws speedily and efficiently as is necessary for the safety of the American driving public. Is that right?

Secretary LaHood. I also told the chairman that I'm going to be meeting with Mr. Toyoda when he is here in America and I hope to talk with him about some of these issues.

Mr. Dingell. Okay. Now the Governors of four States sent a letter that I find most distressing. Because if this government is going to use ownership in automobiles to confer benefits or disadvantage on anybody, I want to know about it. Is there any truth in the assumptions that these Governors are making that in some way or another the politics or ownership of General Motors or Chrysler is in any way related to the actions that are now being taken by your Department against Toyota?

Secretary LaHood. I have talked to three of those four Governors, and I told them that that letter was not accurate. Our investigation of any car company is not based on who they are. The idea that we would not take seriously complaints from people who drive Toyotas belies belief, and the idea that we would do it because our government owns 60 percent of GM is baloney, and I told three of the four Governors that.

Mr. Dingell. You might tell the fourth.

Secretary LaHood. Well, I will.

Mr. Dingell. Mr. Secretary, you are familiar with event data recorders? I believe these are useful to NHTSA, are they not?

Secretary LaHood. Yes.

Mr. Dingell. Have you looked at all the EDRs in the Toyota vehicles that have been recalled?

Secretary LaHood. We have not, but we, again, are going to relook at them.

Mr. Dingell. Some of them do not carry these kind of recorders. Are you able to easily read the recorders of the Toyota vehicles, or do you have some difficulty?

Secretary LaHood. What I'd like to do is really look at the statistics on that and get back to you on the record for ones that we could read and ones we had difficulty with.

[The information follows:]

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Mr. Dingell. Mr. Chairman you have been gracious. Thank you. Thank you, Mr. Secretary. It's good to have you.

Mr. Stupak. Mr. Rush for questions, please.

Mr. Rush. Thank you, Mr. Chairman.

Mr. Secretary, it's good to see you here. Your testimony so far has been excellent testimony and even to a certain extent inspiring, considering your hands on the problem and your hands-on approach and your dedication and commitment. I've known you as a Member of this House, and I know that you're very capable and forthright as an individual and you say what you mean and you mean what you say. I am also encouraged by the confirmation of Mr. David Strickland as the head of NHTSA.

That said, I do have some concerns and I have some questions that I want to ask you.

First of all, earlier today -- I want to get this out of the way -- I received an e-mail from one of my staff members who received an e-mail in turn from one of the executives at the Chicago Defender. You are aware of that newspaper, the Chicago Defender.

This person indicated that his sister-in-law had been killed on December 28 in a Toyota Avalon somewhere near Dallas, Texas. There were three individuals in the car. All four of them were killed. The car flipped over and rested in a pond. The police said that this wasn't a result of a braking issue. So it means

that something was wrong electronically. So my question and my request is that you look into that. I will get you all the pertinent information that I have and --

Secretary LaHood. We will look at it. We will get the information from you, and we will look at it.

Mr. Rush. That said, Toyota consumers have witnessed a significant decline in their resale values. That means that there is a possibility and a probability that Toyota consumers, the owners of these vehicles, will experience a sharp increase in their insurance premiums for owning these vehicles. Are you concerned about that?

Secretary LaHood. I haven't heard about that, no.

Mr. Rush. If in fact that does become a reality, especially in this time of economic hardship, I think we ought to be proactive in trying to offset that in some kind of way.

Secretary LaHood. Okay.

Mr. Rush. The members of this committee raised several areas of concern in regard to NHTSA's response to certain unintended acceleration, and that was explained by resource constraints within the agency. As the chairman said, the subcommittee that I chair will begin to hear and begin to become very active on NHTSA reauthorization. NHTSA's budget for operations and research has been stagnant for the last 10 years. Are you aware of that?

Secretary LaHood. Yes.

Mr. Rush. As cars become more reliant on computers to

operate, NHTSA has not kept up and doesn't have sufficient expertise in electronics to judge the safety of new electronic automobile technology. On at least five occasions NHTSA Office of Defects Investigations cited resource constraints as a reason for the defect petition filed by an individual who experienced sudden unintended acceleration. The question is, does NHTSA have the resources it needs to meet the challenges of its mission?

Secretary LaHood. I hope that you all will be pleased to hear that in President Obama's budget for the Department of Transportation there will be 66 new positions at NHTSA. That is what the President is proposing. We have 125 engineers, and some of them are electrical engineers. The idea that we don't have the experts to do the work is not quite accurate. We do have electrical engineers. We have 125 engineers. And the President has requested in his budget request to all of you 66 new positions at NHTSA. So we are moving away from stagnation.

Mr. Rush. Well, I believe in you as a Secretary and I believe in Mr. Strickland. So we will be working hand in hand with you to make sure --

Secretary LaHood. I look forward to that.

Mr. Rush. -- that we move NHTSA forward and we address these problems.

You have only been there a year, but I'm really mindful and something that's important to me is for departments and employees of these departments and the departments themselves having a

regulatory role with these agencies or these manufacturers and these businesses and corporations that they have to oversee. I hope that you will be able to build a firewall that is clear, that there can be no regulatory roadblock between the agencies that you have to oversee.

Secretary LaHood. I look forward to working with you, sir.

Mr. Rush. Thank you.

I yield back.

Mr. Stupak. Mr. Secretary, just one thing. Your staff told us you have no electrical engineers at NHTSA.

Secretary LaHood. I'm sorry?

Mr. Stupak. You have no electrical engineers.

Secretary LaHood. We have electrical engineers.

Mr. Stupak. At NHTSA.

Secretary LaHood. Yes, sir.

Mr. Stupak. That is contrary to what they told this committee and committee staff during the investigation. They said they have engineers who have taken some classes, but --

Secretary LaHood. We have 125 engineers, and we have electrical engineers as a part of the 125. I'm sworn to tell the truth here, Mr. Chairman.

Mr. Stupak. I know.

Secretary LaHood. I wouldn't be lying about engineers. If I'm going to lie, it's not going to be about engineers.

Mr. Stupak. Are any of these electrical engineers in the

Office of Defect Investigations?

Secretary LaHood. They work for NHTSA, and their responsibilities are to use their expertise in this area.

Mr. Stupak. So ODI, Office of Defect Investigation, can tap other parts of NHTSA.

Secretary LaHood. That is correct. We use their expertise for this.

Mr. Stupak. That is amazing the staff didn't know you had all that expertise a week ago.

Mr. Markey for questions.

Mr. Markey. Thank you, Mr. Chairman, very much.

Welcome back, Ray.

Secretary LaHood. Thank you, sir.

Mr. Markey. Thank you for your work at the Department of Transportation.

Secretary LaHood. Thank you.

Mr. Markey. The impression that I think we've all been left with here today is that Toyota was aggregating all this information in Tokyo, but they weren't sharing it with their dealers, their employees, the people that ran different countries. And so we are at an inflection point here where obviously we have to change this system. We have to give you more power, and we have to just make sure this does not occur in the future. So I'd just like to walk through a few things and get your response, because I think it will help us to flesh out the authorities you

will need and the things that we have to put in place to make sure we don't see a recurrence.

So it turns out that Toyota recalled a Lexus in the U.K. in 2000 because of a floor mat problem that was identical to that involved in the more recent recalls here in the United States. It's my understanding that the Department of Transportation was never informed of that recall.

In 2003, the Department turned down a consumer protection petition filed by an individual from Braintree, Massachusetts, alleging sudden acceleration problems involving his '99 Lexus, saying that the Department had no reason to think there were excessive problems with the Lexus based on what it knew at the time. It wasn't getting the information from Toyota. So it was not in a situation to see the entire situation.

Do you think the Department might have reached a different conclusion had it known about the 2000 U.K. Lexus recall involving the floor mats and trapping accelerator panels?

Secretary LaHood. Well, I don't mean to be venturing a guess, Mr. Markey. I would assume that we would have, but that is a guess.

Mr. Markey. The law doesn't require automakers to report on foreign safety problems that it might have had that do not result in an actual recall, but we have learned recently that one of Toyota's tactics when dealing with safety regulators is to use lobbyists to try to limit the scope of recalls or to prevent them

from occurring at all. Do you think that requiring automakers to more broadly report safety problems that they have encountered in other countries could help you do your job?

Secretary LaHood. Yes.

Mr. Markey. During today's hearing, Toyota claimed to be just beginning to examine the possibility that there are problems with its vehicles electronics, while an outside academic said he proved that real-world circumstances existed under which the software that is supposed to automatically turn cars off if the throttle electronics fail does not work. We have also learned that Toyota had evidently validated that result. Do you think it would be inaccurate to assert that Toyota has identified and proposed remedies for all of the sudden acceleration problems that have been documented for its vehicles?

Secretary LaHood. We are going to do a complete, comprehensive, down-in-the-weeds review of the electronics. We will take information that was presented to your committee today. We will look at all the data. We will look at all the information. We will not rest until we finally find out if electronics are a part of this problem.

Mr. Markey. Can I ask, do you think that you need expanded authority to enable you to more easily conduct mandatory recalls? Do you need more authority?

Secretary LaHood. No, sir, not really. We do these investigations. We meet with auto companies. If they are not

willing to do the recall voluntarily, we have the authority to do it.

Mr. Markey. But you need the information.

Secretary LaHood. We have to have the information. If we have missed the target on the electronics, we will correct that. We're going to do that. We're going to have a complete review.

Mr. Markey. The early warning database that consists of reports provided by auto manufacturers to the Department -- and these reports are generally kept secret unless the Department opens up an investigation -- what do you think about the public in terms of them providing -- being provided with more information regarding potential safety defects that automakers tell the Department about even before an investigation is opened or a recall is announced?

Secretary LaHood. We are for transparency. The more information we can give the public, the better.

Mr. Markey. Do you need authority to do that? Do we have to change any --

Secretary LaHood. I don't know for sure, Mr. Markey. I will get back to you on that.

[The information follows:]

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Mr. Markey. Okay. That would be helpful. Because we want to be as helpful to you as we can be. We think that you're clearly, in my opinion, a great Secretary of Transportation.

Secretary LaHood. Thank you.

Mr. Markey. So we want to work with you to accomplish the goals while you're in the agency.

Secretary LaHood. I appreciate that. Thank you.

Mr. Stupak. Ms. DeGette for questions, please.

Ms. DeGette. I will add my welcome, Mr. Secretary, and associate myself with Mr. Markey's last remarks, maybe not his first -- not all of his remarks.

I just have a couple of questions for you. The first one, I think I know the answer to this. The New York Times has reported that its officials were frustrated with Toyota's slow response while conducting its investigation into acceleration issues. From your previous testimony today I would assume that you agree with that assessment, that Toyota was often slow to respond to requests from your agency, as far as you know.

Secretary LaHood. Yes. We have had issues with them, and that is the reason Ron Medford, our then acting-NHTSA administrator, went to Japan. Ron came to me and said, look, I don't think they're listening to us. I need to go to Japan. I said, leave tonight.

Ms. DeGette. When was that?

Secretary LaHood. It was late last year.

Ms. DeGette. From your sense from talking to Ron and others in the agency, was this a pattern with Toyota even before --

Secretary LaHood. What I said earlier is Toyota has some very good people in North America, very professional people. They know what they're doing. But I'm not sure that they were able to really communicate that to the folks in Tokyo, and that is the reason Ron felt he had to go there. I'm not going to trash the people in North America at Toyota. They are good people. They are professional people. And I told Mr. Toyoda when I talked to him, I said, safety is number one. You need to take this seriously. And I encouraged him to really do that. I think they've gotten that message.

Ms. DeGette. I think it's pretty clear you gave them that message.

NHTSA conducted six investigations into Toyota safety problems since 2003, so this didn't just start last year. This was ongoing since 2003. So my question is, do you know why, since these frustrations were happening at the agency since 2003, that NHTSA didn't use its subpoena power once in all those years of investigation?

Secretary LaHood. Well, we have other authority other than subpoena power, and we've used it from time to time. We have other enforcement mechanisms.

As I said at the top in my testimony, I'm going to be forward

looking here. I've been in this job a little over a year. If you want me to go back and account for what happened in '04, I will do that.

Ms. DeGette. No, I don't. But what I do want to ask you -- so, number one, you don't know why they didn't do that before --

Secretary LaHood. I don't personally know.

Ms. DeGette. Number two, do you reserve the right to use the subpoena power going forward if you don't get adequate response?

Secretary LaHood. Absolutely. Totally.

Ms. DeGette. My second and last question is, following up on the questions Mr. Rush and also Mr. Stupak were asking about the NHTSA budget, you said that there are 66 new positions in the administration's budget --

Secretary LaHood. Correct.

Ms. DeGette. -- within NHTSA. But at the same time, NHTSA's fiscal year 2011 budget for the vehicle operations and research side of the agency is about even. So we are wondering where you're going to fund those extra positions and will they be able to work in this particular part of the agency.

Secretary LaHood. If the Congress approves our budget with additional staff, we will take those resources and put them where they are needed.

Ms. DeGette. So you think that you will be able to hire these 66 new positions within that flat budget.

Secretary LaHood. I think if we get 66 new positions and you

provide the money for it, we will take those people and put them where they are needed. If they are needed on looking into electronics, we will do that. If they are needed in other areas, we will do that.

Ms. DeGette. So your view is that the 66 new people aren't necessarily looking into electronics. They are just --

Secretary LaHood. They are going to be a human resource that we are going to use where we need them, where the problems are.

Ms. DeGette. So let's say you do need them in electronics -- because it seems like from past years, again, not speaking about the last year when you've been Secretary, but from past years this has been a deficiency in the agency. If you put them over there, where are you going to take it from in the agency's current enforcement?

Secretary LaHood. Well, I don't know the specifics on that. I'd be happy to get back to you. We will keep our fingers crossed that you provide us the additional 66.

Ms. DeGette. See, I will just tell you, Mr. Secretary, what we are concerned about, not just with NHTSA but a lot of the other consumer agencies, is over the last 8 to 10 years these agencies have been starved of resources. And we are concerned that if you take 66 new positions, which might be authorized but if there's no additional funding for the agency that we are going to stint on other places where we are already short on enforcement.

Secretary LaHood. I would assume if we get the authorization, we are going to get the money to pay for them. That would be our goal.

Ms. DeGette. And that would be in addition to your fiscal 2011 budget?

Secretary LaHood. Our 2011 would be the 66 additional people, plus the money to pay for them.

Ms. DeGette. Okay. Because the request we know about is pretty much flat.

Secretary LaHood. Our goal will be to --

Ms. DeGette. Your staff has some advice here.

Secretary LaHood. Let me just see what it says here. It says, increase in salary count. Look, if you authorize 66, I will work with our friends on the Appropriations Committee to find the money.

Ms. DeGette. Thank you.

Mr. Stupak. Mrs. Christensen senior for questions, please.

Mrs. Christensen. Thank you.

Welcome, Secretary LaHood. It's always good to have you here. Having worked with you for quite a few years and knowing your integrity, having witnessed your commitment and passion for safety, I have confidence that what needs to be done at NHTSA will get done.

Some of the questions about what authorities you need have already been asked, so let me just ask this one question.

After the Firestone Ford Explorer rollover problem I read that Congress introduced the Passive TREAD Act, which required NHTSA to create an early warning system to gather and analyze more information on auto safety to reduce defects sooner. In a 2004 report -- and I realize this is before you came -- but in that report from the Department of Transportation Inspector General it was stated that the cost estimates for the project were way above what had been anticipated and that the computer system that existed at that time did not have the advanced analytical capabilities that were envisioned by the law. So it didn't have the money, but they didn't have the capability of creating or having that early warning system to gather and analyze the information. Do you know if that problem has been corrected since the Inspector General report of 2004?

Secretary LaHood. It has been. And I can tell you this. When we got into this Toyota thing -- I have been going over this and going over this. I think we have some outstanding people. They work very hard. We get 30,000 complaints a year. We look at what other organizations are saying and doing. We talk to car companies. And we take every one seriously. We don't set any aside. And when we really see a curve and see something that really catches us, we begin to look at that very carefully. And so I think we have a good system in place. Hopefully, we get a few more resources in terms of people. But I think the system works very well. If somebody has a complaint, we take it

seriously, if it's an individual driver or a company or an organization. And our people look at every one.

Ms. Christensen. Thank you, Mr. Secretary.

I yield back my time.

Mr. Stupak. Thank you.

Ms. Sutton for questions, please.

Ms. Sutton. Thank you, Mr. Chairman; and thank you, Mr. Secretary, for being here and for your work at the Department.

A couple of things. The black boxes that we have heard about, I'm just trying to get clarification on that. Does NHTSA have access to the data that was contained in black boxes that might have been -- might be in Tokyo? As I understand it, Toyota has access to this information, but can we access it?

Secretary LaHood. I don't know the answer to that. So it's difficult for us. They only have one reader to read these devices, and it's very difficult to get the information.

Ms. Sutton. So finding ways to get relevant information and enforcing safety concerns here is something that --

Secretary LaHood. It is. I do think all of this has been a big wake-up call for Toyota. I think you will find that when Mr. Toyoda comes on Capitol Hill tomorrow, when he makes some visits to some folks -- I mean, I think they get it now. They need to be more attuned and sensitive to these things.

Ms. Sutton. Thank you, Mr. Secretary.

Also, just because we have the opportunity to make sure the

record is clear here on certain things, I reviewed the report issued by NHTSA on the CARS program. I was happy to see that positive jobs impacts of at least 60,000 jobs.

But I also want to make sure that people understand, because I think there's been some effort to confuse the record, about the way -- we have talked a lot about resources and what you need to do to accomplish the safety functions that fall within NHTSA responsibility. We want to make sure that you always have what you need. And if you need more than you have now, we want to make sure you have got it.

But, just to clarify, it's my understanding that at NHTSA -- I mean, which also, of course, has responsibility over fuel economy standards, which is why Cash for Clunkers was also part of NHTSA's purview, that the people who deal with fuel economy and the people who deal with the safety functions under NHTSA are two different sets of people. Is that correct?

Secretary LaHood. It is correct. But I will say this, Congresswoman -- and you know this -- in the first 4 days of that program, which was your stepchild, or however you want to characterize it -- it was your idea -- 250,000 cars were sold. It was a wildly popular program. And I'm not going to sit here and tell you we weren't overwhelmed. When you sell 250,000 cars and try to get the money out the door to dealers, it became a very serious issue for us. We were trying to incorporate a lot of resources, including our FAA friends out in Oklahoma City, who do

a lot of good work but they also know how to process paper. We used their expertise. We hired people from the outside to come in. But I want people to know there never for one instance was safety ever compromised as a result of the CARS program, not for one second. I wouldn't let that happen.

Ms. Sutton. Mr. Secretary, the other issue, of course, is that I wouldn't let that happen, either. The reality is that we put $50 million in administrative costs into the legislation, so that we actually gave resources when we gave work --

Secretary LaHood. That is correct.

Ms. Sutton. -- to NHTSA. And that is an extraordinarily important point not to be lost because it's easily swept under the rug by those who might want to discredit what was clearly, as you point out, wildly popular.

Secretary LaHood. It was a lifeline to the automobile industry. No one could have ever sold 7 or 800,000 cars in less than 30 days. It was a lifeline to car salesmen, to car dealers, to the loan companies, to the credit unions that made the loans, to the local governments that got the sales tax. The spin-off on that was incredible. It was a lot more than $3 billion.

Ms. Sutton. Thank you. Thank you very much, and I appreciate that clarification.

Secretary LaHood. Thank you.

Mr. Stupak. The gentlelady yields back?

Ms. Sutton. I yield back.

Mr. Stupak. Ms. Schakowsky for questions, please.

Ms. Schakowsky. Hi, Ray. Thank you for being here and answering all our questions --

Secretary LaHood. Thank you.

Ms. Schakowsky. -- and being here at this late hour.

I have been meeting, as I think other members have, with some of the Toyota dealers today, who -- this couldn't have happened at a worse time in many ways with the downturn in the economy, and they are very worried about their futures, and we have to be, too, because there's a lot of jobs involved in dealerships and the manufacture of cars. They said that the sale of Toyota is down like 50 percent right now, which is understandable.

One of the other things that they feel is that there has been disproportionate focus on this particular situation of Toyota, and they pointed out that there have been over the last year some 143 or something like that recalls, some related to safety of other automobile manufacturers. So what I wanted to ask you is how would you rate Toyota's performance in dealing with NHTSA safety issues compared to other automakers? Do we have a particular problem here?

Secretary LaHood. The vast majority of recalls are not on Toyotas. They are on other car manufactures.

Ms. Schakowsky. That is what they were saying.

Secretary LaHood. It is. People know what that is. We put it out there. We are not trying to hide that.

Ms. Schakowsky. They weren't blaming.

Secretary LaHood. The reason that people are focusing on this now is because of the horrific accident that occurred in San Diego where these people lost their lives, and that really highlighted the unfortunate circumstances by which that happened. And you all want to get to the bottom of it, and so do we.

I know there are people on this committee all day that have been talking about the electronics. We are going to get in the weeds on that. We feel an obligation to do that. If we've overlooked it, I guarantee it won't happen on my watch. We are going to look into it.

The idea that we are picking on Toyota is just not accurate. Look at the statistics. Over the last 3 years, 23 million recalls of automobiles as a result of our investigations. And the vast majority were not Toyota.

Ms. Schakowsky. Right. I think they were actually mostly just worried about the publicity that had been around this.

Secretary LaHood. Look, Congresswoman, if you and I were in charge of publicity, there would be a lot different stories written about everything.

Ms. Schakowsky. This is true. Some of us have the same problems.

One of the things that Toyota is doing is installing in some of the recalled cars, not all of them, a software fix that makes sure that the brakes override the accelerator. This seems like a

really good idea. Is there some way that this could be required as a standard safety feature?

Secretary LaHood. I heard Mr. Lentz say they were doing it in the majority of his models as he was sitting here today. And we have not heard that before. It's something I think we should look into. If that is a way to override an electrical problem or a sticky pedal or a floor mat pedal that someone hasn't taken care of, any way that we can save lives and save injuries and correct something that is wrong, I think we should look at it.

Ms. Schakowsky. It seems to me that that would make a whole lot of sense now in this computer and electronic era to make sure --

Secretary LaHood. Yes.

Ms. Schakowsky. I have no other questions. Thank you.

Mr. Stupak. That concludes questions by members of the subcommittee.

We still have members from the full committee here. Mr. Shimkus, if you have any questions.

Mr. Shimkus. No questions, just a statement if I may, Mr. Chairman.

First of all, Dr. Gilbert comes out of SIU Carbondale. I got to listen to most of his testimony in the office, and I got to spend some time with him this afternoon. So I want to place on the record we are very proud of him for the work he has done. And I know my good friend and now former colleague, Secretary LaHood,

would appreciate the Illinois connection of that.

I just want to on the record praise a good friend and a mentor of mine. As you know, I have been a little combative in my 3 years, last 3 years especially, and I think some of that style I learned from the sitting Secretary. There's something to be said about telling it straight and forcefully. And that's always been Ray's style. On the record, I appreciate your friendship and support over the years, and I know you're working in the best interest of the country. So thank you for what you do.

Secretary LaHood. Thank you for those very good words, kind words, and we are going to look at his research. We are going to look at everything, his testimony today. But we want to look at the documents and see what he's done. Hopefully, it will be helpful to us.

Mr. Shimkus. Welcome to the committee.

Secretary LaHood. Thank you.

Mr. Stupak. Mr. Gonzalez, questions, please.

Mr. Gonzalez. Thank you very much.

The first thing, Mr. Chairman, can I ask unanimous consent that we all agree with Mr. Shimkus' description of himself, that he is combative?

Mr. Secretary, I've said it before. I will say it again. We miss you. We are happy to have you, as great a job as you're doing. Too bad we don't have two of you.

A couple of things. One, I think you said there were 250,000

cars sold in the Cash for Clunkers. I think that may have been the first few days. There were 750,000 cars sold. I know I had some of my dealers complaining that the money wasn't being paid quickly enough. The alternative would be for the cars to remain on their lots. When I reminded of that, they were happy to wait a couple of days.

Let me start off with a couple of observations. First of all, in your testimony, written testimony -- I'm going to read from it. NHTSA does not contend that the two recalls will fully resolve all concerns about unintended acceleration in Toyota vehicles. However, with one exception, NHTSA has not been able to establish a vehicle base cause for unintended acceleration events in Toyota vehicles not covered by those two recalls. The exception was the recall of the model year 2004 Sienna vans in 2009 due to a defective trim panel.

Some consumers and others believe that Toyota's electronic throttle control, ETC, systems and perhaps such systems in other manufacturers' vehicles are susceptible to electromagnetic interference, EMI, that can theoretically cause unintended acceleration by resulting in incorrect signals to the engine. To be absolutely sure that the agency is aware of all potential defects, NHTSA is conducting a review of the general subject of possible EMI effects on

ETC systems.

Now you have assured us that that is ongoing and you're going

to be very aggressive about it, which we would all stand here and tell you how can we help you with it. The problem was, and we have had members make reference to it, was that members of NHTSA were here, and this is from a letter -- actually, it's a body of a letter that has been forwarded to you, but it's dated February 22, so I doubt if you've even had a chance to look at it.

As the agency responsible for ensuring that the vehicles on the road are safe, it is essential that NHTSA have ample expertise to test and analyze the electronic systems and to evaluate the sufficiency of tests and the analysis of the automobile and automakers' performance.

It appears, however that, NHTSA lacks the expertise, hampering the ability of the Office of Defects Investigation, ODI, to examine possible electronic defects in vehicles. In the briefing on February 18, officials told the committee staff that the agency has no electrical engineers or software engineers on staff. Now that is not accurate, is that correct?

Secretary LaHood. We have two electrical engineers. We have 125 engineers. We have two electrical engineers, and we are about ready to hire another one.

And the third thing I would say, Mr. Gonzalez, is that when we need outside expertise, we use it. We do. We are not bashful about doing it. If we don't feel we have the expertise, we will go out and find it.

Mr. Gonzalez. I think that is an important point. The

reason for that we have been talking about maybe expanding your authority, and I don't think you're going to bashful about coming here and saying, legislatively speaking, you need a fix. But we also want to be very receptive to the expanded resources that you may require, and there's not going to be anybody on either side of this aisle that's not going to give you whatever you need to get to the bottom of this.

It is good to see you here and receive the assurance that you're aggressively pursuing this. I will end with one question. Is Toyota cooperating with your Department?

Secretary LaHood. A hundred percent now.

Mr. Gonzalez. Thank you very much. I yield back.

Mr. Stupak. A hundred percent now. They weren't always cooperating with you?

Secretary LaHood. I don't know that we would have had to go to Japan. I don't know if I would have had to pick up the phone and talk to Mr. Toyoda.

Mr. Stupak. Let me ask you this. You indicated that you could always -- NHTSA can get outside experts if they need help in an area. Do you know the last time ODI, Office of Defect Investigations, ever hired outside experts to help them with a problem?

Secretary LaHood. I do not. But I will put that on the record for you. I can find out.

Mr. Stupak. We would appreciate it.

[The information follows:]

******** COMMITTEE INSERT ********

Mr. Stupak. Mr. Burgess, questions?

Dr. Burgess. Yes. Mr. Secretary, I'm sure you heard the testimony -- the compelling testimony of the Smiths, who were here.

Secretary LaHood. Of course.

Dr. Burgess. The uncommanded acceleration in her vehicle. They voiced a lot of frustration over getting anyone at Toyota to take them seriously. They also voiced some frustration in getting the National Highway Traffic Safety Administration to listen to them and take them seriously. I got the impression that they were still waiting for a response from NHTSA. I would appreciate it if you would look into that.

Secretary LaHood. We will be in touch with them.

Dr. Burgess. I heard Mr. Lentz say that he didn't know what had happened to the vehicle, but he was going to make an effort to find it. I would just suggest that maybe NHTSA ought to take the same trajectory. I think you would be very interested to know if some of the things that Professor Gilbert brought up today actually can exist in a real-world situation, and if that car was the laboratory that created that, thank goodness no one died in the experiment, but let's get that data and find out if indeed that what Professor Gilbert produced in the laboratory was what Mrs. Smith encountered when she drove her car.

Secretary LaHood. We know where the car is. We have talked

to the owner of the car. We hope to be able to explore that.

Mr. Stupak. That concludes all the questions of the members.

Mr. Secretary, thank you. Thank you for your patience today. We look forward to follow-up questions that we will be sending you.

I want to thank all of our witnesses for coming.

The committee rules provide members have 10 days to submit additional questions for the record.

I ask unanimous consent that four documents -- the Exponent letter dated February 23, 2010, be entered in the record; the report of Professor Michael Ketch be entered in the record; Mr. Neal Haferman's report be entered in the record; and Dr. Gilbert's interim report be entered in the record. Without objection, so ordered.

[The information follows:]

******** COMMITTEE INSERT ********

Mr. Stupak. Mr. Burgess asked that Governor Perry's letter to the committee be entered in the record. Without objection, so be it.

[The information follows:]

******** COMMITTEE INSERT ********

Mr. Stupak. That concludes our hearing. The meeting of the subcommittee is adjourned.

[Whereupon, at 6:55 p.m., the subcommittee was adjourned.]