

CL-10574543-2193

National Highway Traffic Safety Administration
1200 New Jersey Ave.
SE, West Building
Washington, DC 20590

INFORMATION Redacted PURSUANT TO THE FREEDOM OF
INFORMATION ACT (FOIA), 5 U.S.C. 552(B)(6)

To Whom It May Concern:

MAR 20 2014

We have been through a horrific experience, none of which was our fault. My husband was behind the wheel of a 2011 Lexus ES350, and the attached letters and accident report will explain what happened.

Toyota rejects any responsibility because the "black box" is not recoverable. I didn't know cars had black boxes or I would have had it pulled before our insurance company sent it to salvage.

I am so glad the car was totaled, as I never wanted to drive it again and I could not conscientiously sell the car to someone else after the accident for fear the accelerator might stick again.

The car took off like a rocket and I think we were airborne at one point. All my husband had time to say to me was, "I can't control the car," and then we finally were stopped by the condo building.

Questions I had for Toyota were:

1. Have you solved the problem?
2. Why wasn't our car recalled?
3. Why didn't the airbags deploy?

As you can tell from their letter, we got the brush off. Looking at similar situations on the internet I noticed you had been contacted, so I am sending you this information.

Sincerely,

Hampshire, IL

NAM
32114
SMD

Donald Beierschmitt
Direct Phone (310) 468-7426
Fax (310) 381-8690

Toyota Motor Sales, U.S.A., Inc.
19001 South Western Avenue
Torrance, CA 90501

February 24, 2014

[REDACTED]
[REDACTED]
Scottsdale, AZ [REDACTED]

RE: Date of Loss: December 31, 2013
 Vehicle: 2011 Lexus ES350
 VIN: JTHBK1EG7B2 [REDACTED]

Dear [REDACTED]

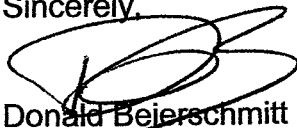
Thank you for contacting Lexus Customer Satisfaction Center in regards to the December 31, 2013 accident. We also have your letter and police report date January 25, 2014.

You expressed concern that your husband experienced unintended acceleration. When he was entering the security gate, he was about to enter the opened gate, the vehicle suddenly accelerated and went through the gate and hit a two trees and one fell onto the vehicle.

We were notified by Farmers Insurance that the vehicle was a total loss and that the salvaged was sold in January. The vehicle is no longer available for our inspection. Toyota Motor Sales, USA, Inc. was not provided the opportunity to inspect the vehicle involved in this incident prior to the vehicle being salvaged. as such, there is no way to determine how this incident occurred. There is no evidence that the accident was a result of any type of manufacture or design defect. We are unable to assist you in your claim for rental reimbursement.

We are very sorry to hear about this unfortunate accident; and we do appreciate the opportunity to address your concerns.

Sincerely,



Donald Beierschmitt
Legal Claims Administrator
Toyota Motor Sales, U.S.A., Inc.

Toyota Motor Sales USA, Inc.
19001 S. Western Ave.
Torrance, California 90509-2991

To Whom It May Concern:

Attached is an article on the 2011 Lexus which explains a horrific accident my husband and I experienced on December 31, 2013.

But first I would like to inform you that we have been quite faithful Toyota product consumers, starting with a small Lexus sedan I bought second-hand from McGrath in Elgin and used for business. Next my husband purchased a new 1998 Lexus G300 in Sarasota, Florida; then with some good fortune I purchased a 2003 LS430 Lexus at McGrath Lexus in Naperville, IL. Wanting a third car for Florida, we purchased a new 2006 Solara convertible. My husband traded in the GS300 for a 2011 ES350, and last May I purchased a 2013 Avalon, trading in my LS430, not needing such a large car for bridge clubs and shopping.

I was not aware of Toyota's problem from 2009 to 2011. Our 2011 was never recalled.

We left Illinois on 12/29, and in three days, over 1800 miles, arrived New Year's Eve day at the main gate where we had rented a condo for three months. The gate code we had did not work for us, but a walking resident had a hand clicker and told us he would let us in. My husband took the car out of Park and put it into Drive, and with that the car shot out like a rocket, broke down the iron gate as it had not had time to open, jumped or smashed some electrical equipment, took down a tree and another one fell on top of the car crushing and breaking in my husband's side window, and finally stopped under the stairway to an upstairs condo wall. I think at one point we were airborne, and all I remember my husband having time to say is, "I can't control the car." Of course our car was totaled.

By the grace of God, and Praise the Lord, no one was in the way and no other cars were present. My husband was covered with glass. We were both strapped in from our trip. The windshield shattered and yet the airbags never deployed. The experience was a nightmare, and we are both suffering PTSD. But by the grace of God we were not hurt, but totally shaken up. My husband did have a small black and blue mark on his shoulder.

This car totally malfunctioned. Why was it not recalled knowing you had problems with the accelerators sticking, and why didn't the airbags deploy? Why oh why?

Our insurance does not cover our car rental, which was \$622.68 for the two weeks we had to rent a car until we purchased a new one, which we really did not need.

Please assure me that this problem has been solved and your Toyota/Lexus automobiles are no longer experiencing this problem, as I am very fond of my 2013 Avalon and we are fond of the 2014 Lexus we just purchased (with a bit of hesitation, I must admit).

My daughter in Illinois is driving a 2010 Lexus ES350, and my sister in Oregon has a 2011 Lexus ES350. Neither of those cars has been recalled.

And to end this letter, please don't insult our intelligence by stating that the floor mat stuck or my husband hit the gas pedal instead of the brake. No one approaches a closed gate at almost 80 miles an hour.

Waiting to hear from you, I am

[REDACTED]
Hampshire, IL [REDACTED]
[REDACTED]

We are presently renting a condo in Scottsdale, AZ until March 30, 2014, where this mishap took place.

[REDACTED]
Scottsdale, AZ [REDACTED]

Both phone numbers will also work at this location.

Diagram Completed? Yes

On 12/31/13 at 1141 hours I was working on patrol as a City of Scottsdale Police Officer (call sign 2L19). I was wearing my regulation, dark blue, SPD-issued patrol uniform which included my badge and duty belt. I was driving a fully marked SPD patrol vehicle (0211123).

On the above date and time Ofc Koerner (875) and I were dispatched to the Edge Apartments at 20100 N 78th Pl regarding a private property accident. When I arrived at the scene I saw the entry gate into the community was bert up and looked as though a passenger vehicle had driven under/through it. I could see several dozen people milling around inside the gate in front of the community center. Several of them managed to open the gate for me and once I drove my vehicle inside I saw the following:

I saw a set of tire tracks leading from the area of entrance driveway and the main gate to the curb just east and south of the community center. I could see damage to the curb where the vehicle appeared to have left the roadway, struck a boulder, went airborne and struck an APS electrical box, a Centurylink telephone utility box, knocked over a large palo verde tree, struck apartment building #13 and stopped partially under the stairwell for the building. A black Lexus ES350 (IL plate [REDACTED]) was resting against the side of building #13. As I walked up the driver a white male subject and his wife were getting out of the car. I asked them both if they had any injuries and they said they did not. They walked to a sidewalk just north of their car and sat in some chairs provided by bystanders. I asked the couple which of them was driving and the male subject said he was. He identified himself with a valid Illinois DL as [REDACTED]. I asked him what happened and he told me the following:

[REDACTED] and his wife, [REDACTED] drive down from their home in Illinois to stay at the Edge Apartments at [REDACTED]. When they arrived at the complex they pulled up to the main gate (the complex is gated and the gates are closed 24/7) so [REDACTED] could enter their gate code and open the gate. He put the car in park and leaned out the driver's window to enter the code. [REDACTED] had trouble doing so and a passing Edge resident, later identified as [REDACTED] (WI) offered to open the gate for [REDACTED] using his key fob. As [REDACTED] did so, [REDACTED] put the car in drive and, according to him, put his foot on the brake. The car then jumped forward and crashed through the gate. [REDACTED] attempted to stop the car but was unsuccessful. He attempted to make left turn to follow the driveway but was unable to do so and hit

ADDITIONAL PASSENGERS	Unit #	Seat Pos	SD	IS	Name	Address	City	State	Zip Code	Telephone No.	D.O.B./Age	Sex

ADDITIONAL WITNESSES	Name	Address	City	State	Zip Code	Telephone Number	D.O.B./Age

the curb and then the boulder. The car went airborne over the utility boxes, landed, drove through a tree and struck a building, where it stopped. [REDACTED] and his wife, who was in the front passenger seat, were both wearing seatbelts and were not injured. The airbags in the car did not deploy. Both [REDACTED] and his wife told me they thought something mechanically went wrong with the car, resulting in the above incident. [REDACTED] did not exhibit any signs of impairment by alcohol or any other substance during the entire time I dealt with him. Neither he nor [REDACTED] had anything further to add.

I then spoke with [REDACTED] who told me the following:

[REDACTED] is a resident of Calgary, Alberta, Canada and is staying at the Edge Apartments in apartment [REDACTED] while visiting Scottsdale. On 12/31/13 at approximately 1140 hours [REDACTED] was returning to the complex from a run when he saw a black Lexus 4-door sedan stopped at the gate and a white male subject attempting unsuccessfully to enter a gate code. [REDACTED], who was about to enter the complex on foot, went up to the car and offered to open the gate for the driver. The driver sat back into his seat and before [REDACTED] could open the gate, the car accelerated rapidly past him, through the southern half of the entry gate, over the curb, boulder and utility boxes, through the tree and came to a rest against the first building south of the community center. [REDACTED] ran through the gate to assist while several people called 911 to report the incident. [REDACTED] had nothing further to add.

SFD responded to the scene and checked out [REDACTED], both of whom refused to be transported. Due to the damaged power box, APS was also notified and responded. Ofc Koerner assisted me with the VIR and crowd control. [REDACTED] car was towed by All City as it was undriveable. The apartment complex manager, [REDACTED] was notified and is working on damage estimates. PA Blocher (B700) responded and took several digital photographs and measurements of the scene.

There is nothing further at this time.

ASSISTING OFFICERS:

(875) KOERNER, T

(B700) BLOCHER, J

*** SECTION 6: PROPERTY DAMAGED (CONTINUED) ***

ADDITIONAL PASSENGERS	Unit #	Seat Pos	SD	IS	Name	Address	City	State	Zip Code	Telephone No.	D.O.B./Age	Sex

ADDITIONAL WITNESSES	Name	Address	City	State	Zip Code	Telephone Number	D.O.B./Age



YAVELLO 1153

Police Department Scottsdale, Arizona

DATE _____ LOCATION OF COLLISION _____

COMPLETE ONLY THOSE SPACES THAT APPLY TO YOU

DRIVER ()		PASSENGER ()		WITNESS ()	
FIRST NAME	MIDDLE NAME	LAST NAME			
[REDACTED]					
CURRENT ADDRESS (including City, State and Zip Code)				HOME PHONE	
[REDACTED]					
BUSINESS NAME / ADDRESS (including City, State and Zip Code)				BUSINESS PHONE	
[REDACTED] HAMPSHIRE, IL [REDACTED]					
[REDACTED] ILLINOIS					
DRIVER'S LICENSE # / STATE					
[REDACTED]					
DATE OF BIRTH	HEIGHT	WEIGHT	HAIR COLOR	EYE COLOR	
[REDACTED]	5'6"	150	GREY	BLUE	
WHAT WERE YOU DOING JUST PRIOR TO THE COLLISION OCCURRING?					
PUTTING CAR IN DRIVE AND IT LURCHED FORWARD AT HIGH SPEED					
(WITNESS ONLY) WHAT CALLED YOUR ATTENTION TO THE COLLISION (breaking glass, etc.)					
(WITNESS ONLY) HOW FAR AWAY FROM THE COLLISION WERE YOU WHEN IT OCCURRED?					
WHAT WAS YOUR SPEED?	?	WHAT WAS YOUR DIRECTION OF TRAVEL?		WEST	
WHAT WAS THE COLOR OF LIGHT?	RED	YELLOW	GREEN (ARROW)	CIRCLE ONE	
← — — — — →					

Passenger #1	[REDACTED]					City	Hampshire	State	IL	Zip	[REDACTED]	Phone	[REDACTED]
DRIVER'S LICENSE #	DOB	5'6"	160	GREY	BLUE								
Passenger #2													
Name	Address		City	State	Zip	Phone							
DRIVER'S LICENSE #	DOB	HEIGHT	WEIGHT	HAIR COLOR	EYE COLOR								
Passenger #3													
Name	Address		City	State	Zip	Phone							
DRIVER'S LICENSE #	DOB	HEIGHT	WEIGHT	HAIR COLOR	EYE COLOR								
Passenger #4													
Name	Address		City	State	Zip	Phone							
DRIVER'S LICENSE #	DOB	HEIGHT	WEIGHT	HAIR COLOR	EYE COLOR								
DESCRIPTION OF COLLISION: I had stopped to punch in for opening the gate. It didn't work first time and as I attempted to punch numbers in again a gentleman walking by said "I'll let you in." I then remember putting the car in Drive & it took off at tremendous speed and I couldn't stop it. The air bags did not activate.													

SIGNATURE

[REDACTED]

WITNESSES BY (OFFICER)

26 May 2005 1153



YAVELLO 1153

Police Department Scottsdale, Arizona

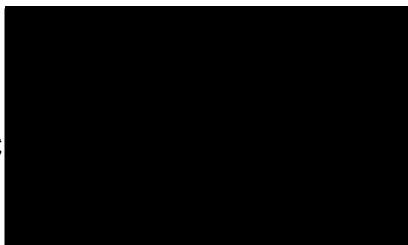
DATE 31 Dec 2013LOCATION OF COLLISION Edge Condos. 78th EntranceCOMPLETE ONLY THOSE SPACES THAT APPLY TO YOU

DRIVER ()		PASSENGER ()		WITNESS (X)	
FIRST NAME	MIDDLE NAME	LAST NAME			
[REDACTED]					
CURRENT ADDRESS (including City, State and Zip Code)				HOME PHONE	
I live in Canada [REDACTED] Calgary AB but was staying as a guest in [REDACTED]				[REDACTED]	
BUSINESS NAME / ADDRESS (including City, State and Zip Code)				BUSINESS PHONE	
[REDACTED]					
DRIVER'S LICENSE # / STATE					
[REDACTED] Alberta					
DATE OF BIRTH	HEIGHT	WEIGHT	HAIR COLOR	EYE COLOR	
[REDACTED]	6'2"	230 lb	brown	blue	
WHAT WERE YOU DOING JUST PRIOR TO THE COLLISION OCCURRING?					
- getting set to walk through gate.					
(WITNESS ONLY) WHAT CALLED YOUR ATTENTION TO THE COLLISION (breaking glass, etc.)					
[REDACTED]					
(WITNESS ONLY) HOW FAR AWAY FROM THE COLLISION WERE YOU WHEN IT OCCURRED?					
[REDACTED]					
WHAT WAS YOUR SPEED?		WHAT WAS YOUR DIRECTION OF TRAVEL?			
[REDACTED]		[REDACTED]			
WHAT WAS THE COLOR OF LIGHT?		RED YELLOW GREEN (ARROW)		CIRCLE ONE	
[REDACTED]		[REDACTED]		←	

See
back
of
page.

Passenger #1					
Name	Address	City	State	Zip	Phone
DRIVER'S LICENSE #	DOB	HEIGHT	WEIGHT	HAIR COLOR	EYE COLOR
Passenger #2					
Name	Address	City	State	Zip	Phone
DRIVER'S LICENSE #	DOB	HEIGHT	WEIGHT	HAIR COLOR	EYE COLOR
Passenger #3					
Name	Address	City	State	Zip	Phone
DRIVER'S LICENSE #	DOB	HEIGHT	WEIGHT	HAIR COLOR	EYE COLOR
Passenger #4					
Name	Address	City	State	Zip	Phone
DRIVER'S LICENSE #	DOB	HEIGHT	WEIGHT	HAIR COLOR	EYE COLOR
DESCRIPTION OF COLLISION:					
- I was coming back from my run at approx 11⁴⁵ am. I get back into the Edge via opening the vehicle gate with the key fob. There was a vehicle trying to get the gate to open using the keypad. He appeared to be having difficulty & I offered to open the gate for him. He said 'OK' & got back into his seat. Before I had a chance to open the gate, the vehicle rapidly accelerated past me and broke through the south half of the gate. He tried to turn left, but his rate of speed would not allow this. His vehicle launched off the road just south of the fire hydrant. Went airborne, hit the transformer box and a utility box, hit a tree & wedged the vehicle under the stairwell by the chest building.					

SIGNATURE

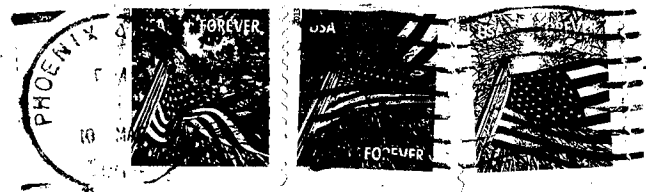


WITNESSES BY (OFFICER)

[Signature] 1153

[REDACTED]
Hampshire, Illinois
[REDACTED]

~~W45-212~~



W45-212

National Highway Traffic Safety Admin.
1200 New Jersey Ave.
SE, West Building
Washington, DC 20590

