

Jordan Ziprin

November 17, 2005

Kathleen C. DeMeter, Director
Office of Defects Investigation
Natl. Highway Traffic Safety Adm.
400 Seventh Street, S.W.
Washington, D.C. 20590

Re: DPO5-002

Dear Ms. DeMeter:

I filed the Defect Petition in the above-captioned matter. The Principal Investigator is Scott Yon. The Defect Petition concerns vehicle speed control, electronic throttle, and uncontrollable accelerations in 2002-2005 Toyota and Lexus vehicles. I subsequently amended my petition to include the brake systems on those vehicles which evidence in your agency files tends to establish a connection with the acceleration and throttle problems. In addition, I also alleged that there has been a repeated failure of the brake systems apart from the acceleration issues, which is also strongly supported in the customer complaints contained in NHTSA files.

I have so far engaged in a very extensive research of consumer complaints contained in your agency's database. I have submitted the ODI citations of those complaints to Mr. Yon. As of this date, I have submitted over one-thousand consumer complaint citations to Mr. Yon. This figure will increase because I have not completed my database search of the Lexus vehicles. Just recently, I have realized that a substantial number of the so-called transmission component complaints actually raise electronic throttle defect issues. See, for example, ODI 10062276. Given the scope of my research, my age, the numbers of hours I have engaged in the research and what remains to be done, I would certainly appreciate your assigning the task of reviewing those "transmission" component complaints to someone in your office to determine the relevancy of those complaints to the Defect Petition. I am virtually certain that such a review will provide additional ODI citations for purposes of consideration.

Having reviewed most of the Toyota consumer complaints, the issue arose in my mind why the prior investigation of these issues, PE04-021, was limited to so few vehicles. In my research, there was ample evidence at that time of hundreds of consumer complaints about the electronic throttle system during the period prior to

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the completion of the former investigation, which, if I recollect correctly, involved a review of less than forty complaints, which were then pared back to some 11 vehicles. Based upon the very limited investigation previously undertaken, I was determined that all the relevant consumer complaints be brought to your attention along with all other relevant and material facts and circumstances, even though it placed an almost overwhelming burden on me.

One of the additional investigatory issues I wish to raise concerns various consumer complaints about serious and dangerous hesitation in the acceleration of the vehicles under consideration. Mr. Yon advised me that your office would not consider any such allegations as a matter of policy. Assuming that Mr. Yon's statement is an accurate representation of NHTSA policy, I am of the view that it would be a serious mistake to exclude such complaints in this investigation because they involve an integral part of the investigation of the alleged electronic throttle defects. For example, there are a very large number of complaints which allege that the vehicles would first fail to accelerate upon application of the gas pedal, varying between one to ten seconds, and then immediately thereafter surge forward very rapidly, sometimes near the top RPM rate, and, in many instances uncontrollably. Under the described circumstances, it makes no investigatory sense to exclude from your investigation the acceleration hesitation evidence since both problems are integral to the investigation of failures in the electronic throttle and are clearly related, as described in the consumer complaints. What policy would your office apply, when a single complaint alleges both acceleration hesitation followed by dangerous acceleration surges, disregard evidence of the hesitation issue in considering that complaint? The answer is obvious. For the very same reason, it would be wholly inappropriate to fail to consider the hesitation issues raised in numerous consumer complaints which I have cited. I would appreciate a clear statement from your office whether or not you intend to consider those ODI complaints which raise hesitation issues as part of the current investigation of my petition. A failure to consider all of the related electronic throttle problems would undermine the very validity of the investigation.

I also mentioned to Mr. Yon that it is my firm and considered position that virtually every issue raised in the consumer complaints should be evaluated by electronic engineers. Electronic defects, unlike very many mechanical defects, occur randomly and unpredictably, and it takes the expertise of someone trained in electronic defects to properly evaluate such systems, which are in most instances wholly different from mechanical defects. This is clearly the view of some of the more tech savvy complainants. See, for example, ODI complaint numbers 1013442 and 10118623, copies of which are attached to this letter.

Isn't strange that Toyota/Lexus mechanics have virtually never been able to duplicate the complaints of the consumers when the vehicles have been tested? Is it reasonably probable that the more than one-thousand complainants (so far) are misstating the facts, incompetent and/or negligent drivers? Most of the complainants believe that the companies are engaging in a massive deception and cover up of the

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throttle problems right up to the very top of the corporate ladder without regard for the safety of their customers, the passengers, and the general public. I am certain that you are well aware that these issues have been the subject of many articles in a number of newspapers. More recently, without any initiation by me, an investigative reporter for NBC-TV contacted me regarding the described customer complaints against Toyota/Lexus. I have also been led to believe that your office is monitoring new complaints about the defects which I have raised in my petition.

The final point I wish to raise in this letter is the abundance of evidence in your office's own files which clearly point to serious defects in the electronic throttle installed by Toyota-Lexus in their 2002-2005 vehicles. Those complaints reveal instances wherein the alleged defects have resulted in crashes, substantial property damage, and deaths, as well as numerous close calls. I urge NHTSA to exercise its authority to the fullest extent of the law—immediately as possible—to require Toyota/Lexus to disclose all documents, records and other material in its possession and/or under its control and/or subject to its control, relating to the defects raised in my Defect Petition so that NHTSA can perform its statutory obligations to ensure the safety of the public. I am certain that you are aware of the continuous filing of relevant complaints by Toyota/Lexus customers since the filing of my petition. The time has come to put an end to the companies' reliance on NHTSA's July 2004 limited investigation report as a basis for stonewalling their customers as to the true facts.

Sincerely,


Jordan Ziprin
Petitioner

Two Attachments



Office of Defects Investigation

Complaints - Search Results

1 Records Displayed.

Report Date : November 16, 2005 at 03:00 PM

ODI Numbers Searched: 10134442

Make : TOYOTA

Model : TACOMA

Year : 2003

Manufacturer : TOYOTA MOTOR NORTH AMERICA, INC.

Crash : No

Fire : No

Number of Injuries: 0

ODI ID Number : 10134442

Number of Deaths: 0

Date of Failure: March 1, 2005

VIN : 5TEWN72NX3Z...

Component: OTHER

Summary:

I HAVE A 2003, TOYOTA TACOMA, V6, 4X4, TRD PACKAGE. I WAS DRIVING DOWN THE FREEWAY AND EVERY NOW AND THEN IT IS LIKE I TOOK MY FOOT OFF THE GAS BUT I DIDN'T! IF I STEP ON IT, IT IS FINE. *JB THE PROBLEM: IS THROTTLE BY WIRE THROTTLE BODIES ON 03 AND 04 TACOMAS. THE ACCELERATOR PETAL POSITION SENSOR ASSEMBLY HAS A SHAFT ONTO WHICH THE LEVER FOR THE ACCELERATOR CABLE IS MOUNTED WITH SOME RETURN SPRINGS. THIS SHAFT ALSO TURNS THE POTENTIOMETER. THIS LEVER (A PLASTIC PIECE) LIMITS THE TRAVEL OF THE ASSEMBLY, SO THE HIGHEST AND LOWEST RESISTANCES OF THE POTENTIOMETER ARE NOT ENCOUNTERED IN THE POTENTIOMETER. THE PROBLEM IS THAT THE POTENTIOMETER CAN ALSO TURN IN THE ASSEMBLY, LOOSING ITS REFERENCE TO THE ARM AND LEVER. THEN THE RANGE OF RESISTANCE THAT IS POSSIBLE CAN BE CHANGED. IF IT TURNS TOO FAR ONE WAY, THE HIGHER RESISTANCE WILL BE SUCH THAT THERE IS NOT SUFFICIENT VOLTAGE SENT TO THE ECU TO INDICATE THAT THE PEDAL HAS BEEN DEPRESSED. CONVERSELY, THERE IS A POINT AT THE OTHER END OF THE PETITIONER WHERE THE FULL VOLTAGE IS APPLIED AND THE ECU SEES THIS AS A FAILURE AND CLOSES THE THROTTLE BY RELEASING THE THROTTLE CONTROL MOTOR'S CLUTCH. NOTHING HAS BEEN TO DONE TO SOLVE THIS ISSUE WITH TOYOTA OR DEALERSHIP. MECHANIC CAN NOT REPLICATED PROBLEM. SUGGESTED I REPLACE BRAND NEW THROTTLE BODY WHICH IS ABOUT \$600



Office of Defects Investigation

Complaints - Search Results

1 Records Displayed.

Report Date : November 16, 2005 at 03:09 PM

ODI Numbers Searched: 10118623

Make : TOYOTA

Model : TACOMA

Year : 2003

Manufacturer : TOYOTA MOTOR NORTH AMERICA, INC.

Crash : No

Fire : No

Number of Injuries: 0

ODI ID Number : 10118623

Number of Deaths: 0

Date of Failure: March 15, 2005

VIN : 5TEHN72N13Z...

Component: VEHICLE SPEED CONTROL

Summary:

AT ANY TIME, MY 2003 TOYOTA DOUBLE CAB 4X4 TACOMA PICKUP TRUCK WILL LOSE ALL POWER AS IF I HAVE REMOVED MY FOOT FROM THE ACCELERATOR PEDAL WHEN IN FACT I HAVE NOT. THIS WILL CAUSE MY TRUCK TO DRASTICALLY DECREASE SPEED UNTIL I PUMP THE GAS PEDAL UNTIL IT DECIDES TO WORK AGAIN AND PICK UP SPEED AGAIN. I HAVE DONE MUCH RESEARCH ON THIS ISSUE AND HAVE FOUND THAT THE CAUSE IS A FAULTY "DRIVE BY WIRE" THROTTLE BODY WHICH IS CAUSING THIS. THE THROTTLE BODY ON THESE TRUCKS ARE COMPUTER CONTROLLED. YOU CAN ONLY OPEN THE THROTTLE BODY BUTTERFLY THE FIRST 25% WITH THE PEDAL THEN THE COMPUTER OPENS IT THE REST OF THE WAY. THESE THROTTLE BY WIRE THROTTLE BODIES ARE CRAPPING OUT LEFT AND RIGHT AND TOYOTA IS TRYING NOT TO REPLACE THEM UNDER THE POWER TRAIN WARRANTY. THEY ARE CLAIMING IT IS COVERED UNDER THE 3/30 BUMPER TO BUMPER WARRANTY AND NOT THE 5/60 POWERTRAIN WARRANTY. I FEEL THAT THIS IS A SAFETY ISSUE AND NEEDS TO BE ADDRESSED AS IT CAUSES ME TO LOOSE CONTROL OVER THE VEHICLE AND IT IS PUTTING MYSELF, PASSENGERS AND OTHERS ON THE ROAD IN DANGER. WHAT IF THIS HAPPENS IF I PULL OUT IN FRONT OF A DUMP TRUCK? WHAT IF IT HAPPENS WHEN I AM CROSSING A TRAIN TRACK?? I THINK IT IS A SERIOUS LOSS OF CONTROL ISSUE AND IT SHOULD BE A RECALL ITEM PURE AND SIMPLE.