

Toyota has a long history of building safe, reliable and high quality vehicles, and we are committed to the highest levels of consumer safety and satisfaction with our products. Toyota vehicles are carefully and rigorously tested, and are all engineered to meet or exceed the high standards set by Federal regulators.

We cooperate fully with all investigating and regulatory agencies who request information and data about Toyota vehicles involved in accidents. Further, we always strive to provide complete and accurate information to our product safety regulators.

Communications with consumers about safety recalls are strictly regulated and Toyota adheres to these regulations. Toyota has absolutely not minimized public awareness of any defect or issue with respect to its vehicles. Any suggestion to the contrary is wrong and borders on irresponsibility.

We are confident that the measures we are taking address the root cause and will reduce the risk of pedal entrapment. Nonetheless, Toyota will remain vigilant in thoroughly investigating and taking appropriate measures to address any defect trends that are identified.

With respect to the questions you have raised, here are some key facts that should set the record straight.

## QUESTIONS

Q1: In 2003, Toyota engineers discovered a defect in Sienna minivans that could cause them to accelerate without driver input. The problem was corrected on the assembly line, but at least 26,000 vans had already been manufactured, according to NHTSA documents. If this is correct, why did Toyota not move to correct the problem in those vehicles immediately, and why did it wait until 2008 to inform NHTSA of the defect and until this year to recall those vehicles? Also, it appears that only around 1/6<sup>th</sup> of those 25,000 vehicles have been repaired in the recall. Why so few?

Toyota does not agree that its engineers discovered a defect in Sienna minivans that could cause them to accelerate without driver input. Here are the facts: in April 2003, during dynamometer testing inside the Toyota factory, a hard plastic trim panel attached to the center console trapped the accelerator pedal. The root cause was a missing attachment clip.

A safety recall was not deemed necessary because immediately following the incident, Toyota conducted an investigation, including checking more than 200 vehicles in the plant and the shipping yard. No vehicle was found with a missing clip. In addition, there were no warranty claims or reports of a missing clip at that

time. Toyota determined that the missing clip was an isolated incident.

After evaluation and redesign, in June 2003, a hard plastic trim panel of a different shape was implemented as an additional safety measure. Based upon the trim panel's design, if the attachment clip were to be missing, the trim panel's increased resistance would make pedal entrapment very unlikely. The only way the clip will ever be missing is if the clip is not properly replaced after performing a repair operation which involves removal of the trim panel.

In 2006, a sole customer complained about a pre-June 2003 trim panel interfering with the accelerator pedal. The report to Federal regulators of the complaint indicated that the owner had repairs done that involved removing the trim panel to access HVAC components.

In August, 2008, Federal regulators opened an investigation. On January 14, 2009, Toyota advised regulators that "Toyota has not determined that the condition is a 'safety related defect'. Toyota agreed, however, to voluntarily undertake a campaign to provide owners of the older vehicles with newly designed trim panels. In response to Toyota's voluntary campaign, regulators closed the investigation.

As for the number of vehicles repaired, Toyota's activities to encourage customers to bring their vehicles in are consistent with industry practice and Federal regulations. Typically, the rate of recall completion is affected by the age of the vehicle.

Q2: Toyota has conducted numerous recalls related to sudden acceleration over the past decade in the U.S. and Canada, including two previous floor mat recalls. But the problem has continued. Does this mean that the previous recalls were not successful in eliminating the problems and if so, why not? In particular, why wasn't the 2007 recall of Lexus ES and Camry floor mats effective in preventing catastrophic accidents such as the Saylor case?

Toyota has conducted two all-weather floor mat (AWFM) recalls after receiving reports that if the floor mat (either by itself, or if it is placed on top of an existing carpeted floor mat) is not secured by the retaining hooks, the mat can move forward and interfere with the accelerator pedal returning to the idle position. If the mat is properly secured, it will not interfere with the accelerator pedal.

As reported in the law enforcement investigation, the floor mat in the Saylor accident was not only improperly secured, it was incompatible and incorrect for the vehicle. The recall recently announced addresses the fact that incompatible floor mats, or multiple floor mats could be installed and that the remedy must address that possibility.

Q3: In October 2004, Toyota wrote NHTSA that that it would not conduct a recall of steering relay rods in 4Runners because, unlike in Japan, it had not received field information to indicate a problem in the U.S. market. But documents entered into court evidence indicate that Toyota had received dozens, if not more, complaints of relevant problems prior to that date, and other court documents show that Toyota had performed numerous warranty repairs on those components prior to that date. If these documents are correct, why did Toyota tell NHTSA that it had not received such information in the U.S.? And why didn't Toyota conduct a U.S. recall at that time?

Toyota has always been fully cooperative with Federal regulator's investigations and inquiries and has always submitted all information requested consistent with the rules and regulations applicable to regulators.

Regarding unspecified "documents entered into court evidence", any party in a court litigation can submit documents to the court and assert that those documents support one proposition or another. In most cases, the ultimate decider of what those documents truly prove is the jury, which makes its decision after being instructed by the judge as to what evidence to properly consider and after hearing arguments about the evidence from both sides.

Toyota will not comment upon documents "entered into court evidence" or otherwise submitted in litigation outside of that fact-finding process.

Q4: Toyota has moved on numerous occasions to settle lawsuits alleging sudden acceleration or unintended acceleration. According to attorneys and other knowledgeable sources, dozens of these cases have been settled and plaintiffs have been held to strict confidentiality agreements. Is this true and can you tell us specifically how many settlements you have reached? If Toyota's position is that the problem is caused by floor mat and pedal interaction when the floor mat is improperly installed by the driver or another third party, why would the company have settled those cases?

Like many parties in civil litigation, Toyota at times has resolved and will continue to resolve matters with litigants through confidential settlement when it is in both parties' interests to do so. Such settlements must be agreed to by both parties and cannot be imposed by Toyota alone. Apart from this general principle, Toyota does not comment on confidentially resolved matters.

Q5: A number of consumers have told us that Toyota bought back their vehicles under Lemon laws following complaints of unintended or sudden acceleration. Is this true and could you say how many vehicles you have bought back because customers complained about unintended acceleration? If Toyota's position is that the acceleration problem is caused by floor mat and pedal interaction when the floor mat is improperly installed by the driver or another third party, why

would it buy those vehicles back as lemons. As a corollary question: what has Toyota done with [any](#) vehicles it bought back as Lemons that allegedly suffered from unintended acceleration? Were they destroyed? Were they resold?

Toyota has no policy to buy back vehicles under the Lemon Law or any other buyback program for customers complaining of unintended or sudden acceleration. Toyota Motor Sales, USA, Inc. is not aware of it buying back any vehicles under The Lemon Law for such complaints. The customers to whom you refer may have interacted with Toyota dealers who on their own have always been able to deal with dissatisfied customers to preserve goodwill.

Q6: Toyota maintains that it cannot share information on its Event Data Recorders with vehicle owners because there is only one diagnostic tool capable of reading the information. Is that still accurate, that there is only one such tool in the entire country?

Toyota does not yet have a commercially available Event Data Recorders (EDR) readout tool and its tool is currently a prototype. There is only one prototype readout tool in the U.S. Toyota performs EDR readouts for law enforcement under certain circumstances. We are also occasionally ordered by various courts to perform EDR readouts. A readout for law enforcement is a community service that Toyota performs. Toyota does not have the capacity to perform readouts using its one prototype tool in all cases.

Federal regulators have required that by September 1, 2012, Toyota and all other manufacturers which have EDRs in their vehicles will be required to make a data retrieval tool commercially available. Toyota will, of course, comply with this requirement.

The vehicle in the Padilla case that you referenced did not have an EDR. It had a G-Force Data Recorder (GDR), which is a primitive deceleration-force measuring device that only assists with airbag deployment. The GDR was never designed nor intended to be used for accident reconstruction purposes.

Q7: Under California state law and laws in a number of other states, EDR data belongs to the vehicle owner, yet Toyota has repeatedly told customers that the data is proprietary. Who does the data belong to? Did the 2005 federal court ruling in Padilla vs. Toyota change the way that Toyota shares EDR data?

As to EDR data ownership, such ownership varies state by state. As explained previously, the prototype software used by Toyota to perform EDR readouts is proprietary, as is the case with all auto manufacturers. Toyota does not contend that the EDR readout data is proprietary. When a data retrieval tool is commercially available, any data retrieved will then as now be subject to applicable state law.

Q8: In the course of NHTSA's drafting the rule on EDRs, Toyota raised numerous objections to both the proposed rule and the original version of the final rule, including limiting the number and time range of data points captured. Why would Toyota oppose such requirements?

The assertion that Toyota opposed the EDR rule is flatly wrong. As a careful and fair review of the rule-making record will reflect, Toyota in fact supported the establishment of the EDR rule and urged that the EDR rule be simplified to prevent other electronic components unrelated to the EDR to be unintentionally affected by the rule.

While Toyota and other members of the auto industry raised concerns with some details of the proposed EDR rule, many of those concerns were resolved in the final rule with which Toyota is fully preparing to comply. Indeed, Toyota proposed and Federal regulators generally accepted the notion that EDR retrieval tools should be made available through mandatory license to licensees outside of the manufacturer's control. Toyota's purpose in its proposal was to make EDR retrieval more widely available while protecting proprietary information.

Q9: According to your web site, Toyota's EDRs are capable of recording data including brake pedal application and degree of application of accelerator pedal, among other things. That data would appear to be useful in determining possible causes in the Saylor case, as well as in other similar cases. But according to the Sheriff's report, that data has not been accessed in that case. Does Toyota intend to access that data to help it make a determination, and does it plan to release that data?

The EDR is capable of recording only the previous several seconds of activity before and/or a fraction of a second after a crash or near-crash situation. At the Sheriff's request and with the agreement of all interested parties, Toyota agreed to perform a readout of the EDR in the Saylor vehicle. In the presence of representatives of all interested parties and the Sheriff's department, Toyota attempted to perform the readout as agreed. However, due to the extensive damage to the EDR unit from the crash, it was impossible to perform a readout. We suggest you confirm this fact with the San Diego Sheriff's Department which retains custody of the EDR to this day.

Q10: Has Toyota used EDR data to aid investigation of any other alleged unintended or sudden acceleration cases? If so, what did the data show? Has Toyota shared EDR data with NHTSA for its investigations? If so, in what cases? Has Toyota extracted any data from EDRs that shed any light on SA or UA cases?

Given the fact that the readout tool is a prototype and has not been validated, it is Toyota's policy not to use EDR data in its investigations. However, Toyota has used the readout tool under certain circumstances. One such circumstance is the Saylor matter described in the answer above. In another circumstance, a court ordered Toyota to use the readout tool in a litigation. The readout data was consistent in that case with Toyota's position that the unintended acceleration was caused by the driver's foot on the accelerator pedal.

Finally, Federal regulators at times requested EDR readouts and Toyota has in each instance complied with these requests in order to assist the agency. Toyota will continue to comply with requests from regulators to perform readouts.

Q11: Has Toyota, through its handling of recalls, defect investigations, settlements, lemon buybacks and litigation minimized public awareness of the potential risk for sudden acceleration events in its vehicles? If not, how do you explain the impact of those actions?

A11: [answered in the preamble to the Q&A]