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The Toyota Witch Hunt

Much of the testimony from Congress's Toyota hearings is riveting and emotional but can't be trusted, writes Ed Wallace

By [Ed Wallace](#)

"Several times I have noticed that the acceleration will drop off the second I take my foot off the pedal. Please advise ASAP!!!!!!!!!!"—*NHTSA Toyota Complaint #10302477*

"Accelerator stuck, wide-open position, sudden acceleration to high speed, while driving. Unable to stop vehicle with braking system."—*NHTSA Toyota Complaint #10302541*

The above are two of the thousands of [complaints](#) registered with the National Highway Traffic Safety Administration concerning speed control issues with late-model Toyota ([TM](#)) Camrys. The media keep saying that "close to 3,000 complaints of uncontrollable unintended acceleration" have been sent to the NHTSA, and doing so may make their audience think each of these "complaints" stems from a legitimate problem—maybe even an accident. Like everything else in this fiasco, that's overstated.

What is important to remember is that many of the items included in that number are not complaints at all. The first one above actually reports that the accelerator pedal works exactly as it's designed to: It doesn't stick, it responds instantly.

And many serious-sounding complaints raise questions as to their veracity. For example, in the second complaint above, in spite of the fact that the person claimed the throttle was stuck in a full open position, with no brakes, that file also shows the vehicle was not involved in a wreck. That is a very strange outcome for a car driving uncontrollably at a high rate of speed with no working brakes.

"MALFUNCTION COULD NOT BE DUPLICATED"

On Feb. 23, a House Energy & Commerce subcommittee held lengthy hearings on the [Toyota](#) situation. Their first witnesses after the committee members' opening statements were Eddie and Rhonda Smith of Sevierville, Tenn., who related the story of their 2007 Lexus ES 350.

Ms. Smith claimed she had been driving toward Interstate 40 when, immediately after entering the highway, her Lexus started accelerating out of control. Ms. Smith related how the cruise-control light came on, so she turned that system off. She put the automatic transmission into all of its gears, including neutral and reserve. She put both feet on the brakes and still nothing. According to her testimony and an article published at [WATE.com](#) on Aug. 29, 2007, she also engaged the parking brake. She called her husband—not that she felt he could help, but "just to hear his voice one more time"—and then, according to her testimony, "prayed for God to help me." Ms. Smith credited God with intervening after she'd gone six miles at more than 100 mph. The car simply started slowing down, and she could finally bring it to a complete stop.

Smith's testimony was riveting and highly emotional, and anyone watching could see she honestly believed she was relating what actually happened. No viewer could have been untouched by her sincerity. But that's not the end of her story.

Her local Lexus dealer examined her car and could find nothing. Then, as Ms. Smith related, the NHTSA actually sent an employee down to Tennessee to investigate her complaint. Only the NHTSA concluded that she had two sets of floor mats in her car—a rubber all-weather floor mat, placed on top of the standard factory issue—and it was likely that situation had created her problem. In fact, Smith was quoted in 2007 as saying, "I think it's sad that these mats were installed like they were."

The Smiths dismissed the dealer's findings, the NHTSA's, and an arbitration board's by saying that they had been "called liars."

More than likely the investigators simply said that there was no evidence they could find to explain the situation as she described it.

THE PROOF WOULD BE VISIBLE

In a case like this, some physical evidence would remain; and a thorough investigation should be able to determine what truly took place. Certainly slamming on the emergency brake, as Smith claimed she had done in 2007, leaves tangible evidence. Here's why.

The parking brake in a Lexus ES 350 operates separately from the power brake system. It is a secondary disc/drum brake that is controlled by a direct link cable—so the car's electronics could not come into play. Moreover, once that cable-operated brake is fully engaged, it could lock up the nonpowered rear wheels of the Lexus, effectively negating the antilock brake system's ability to operate. And locking the rear wheels on a Lexus ES 350 moving at a high rate of speed would "sand" the bottom of the tires against the pavement. In a partially engaged position, it will heat up and cause brake damage. But either way, because it is being applied on the rear wheels—and the Lexus ES is a front-wheel-drive car—it would still slow the car down.

This is the one thing Rhonda Smith claimed she tried and it didn't work that no one can blame on ghosts in the electronics.

As for Ms. Smith's position that she threw her car into reverse and it did nothing to either stop the car or damage the transmission, that's an incredible claim that so far no mechanic believes. Just as anyone who has ever tested cars knows that full pressure to the brakes will always override engine speed. (It should be noted that on Toyota's hybrids you can put the car in reverse while in motion, and nothing will happen.)

Rhonda Smith thanked Sean Kane, president of for-profit auto industry safety consultant Safety Research & Strategies Inc. for inviting her to testify on Tuesday. For those who didn't watch the proceedings, the most humorous part was Kane trying to get out of answering the direct question, Did part of his funding come from litigation attorneys who are actively suing Toyota on this issue? In fact, they do pay him. According to a Feb. 13 article in *The Wall Street Journal*, the Rehoboth (Mass.)-based company works with plaintiff's attorneys to file suits against the automakers it investigates.

Follow-up: The Smiths sold their Lexus after that incident, and, also according to the *Journal*, last week the NHTSA checked with the new owners and "they have had no problems with the Lexus since they bought it with less than 3,000 miles on the car."

"FINDINGS" HARDLY SCIENTIFIC

Herein lies the problem with congressional hearings on issues like this. The individuals who should have testified following Eddie and Rhonda Smith could have been the NHTSA expert who flew to Tennessee, inspected her vehicle, and concluded that it was likely the double layer of floor mats. Or the certified mechanic at her Lexus dealership likewise could have told Congress how he could find no evidence of mechanical failure with her car. Who knows, their testimony might have validated her claims, had it been proved that they did little or nothing to truly try to uncover what happened that day. Conversely, things could have gone the other way. But we all would have had a better, more balanced understanding of her case as stated.

Instead, we were treated to Dr. David Gilbert of Southern Illinois University, also a guest of Mr. Kane's, who claimed to have found how Toyota's electronic system could totally malfunction, creating a runaway car—and claimed he'd found the error in less than four hours. Spoiler alert: Dr. Gilbert was assigned this work by Kane's safety advocacy firm, with at least partial funding by trial lawyers.

Here, too, is a problem: Dr. Gilbert said he relayed the results of that test and his concerns directly to Toyota. In short order Toyota looked into Dr. Gilbert's claims and found them not to be valid in terms of creating unintended acceleration. Then, to the company's surprise, it watched his appearance with Brian Ross on ABC News this past Monday night, Feb. 22.

According to Toyota, it now appears that Dr. Gilbert had done something completely different in order to get a Toyota Avalon to accelerate under its own power. Toyota offered to evaluate Dr. Gilbert's Avalon, with ABC in attendance, and see what he did electronically to cause it to accelerate.

Additionally, Toyota is fairly adamant that Gilbert's "test evaluation" on ABC News was not the original "discovery" he relayed to

them on Feb. 16.

BACK IN THE HOT SEAT

Back in the congressional hearings, Representative Bobby Rush (D-III.) played another tragedy for the committee. It was the case mentioned in my [last column](#), that of the Toyota Avalon that on Dec. 26, 2009, went into a pond and killed four people in Southlake, Tex. Rush apparently felt he should go on record before Congress about this because one of the individuals killed in that tragedy had a relative in his district.

Rush's emotionally charged statement concerns a case that continues to reverberate. Yet it should be noted that Southlake police saw no evidence that the driver attempted to brake before the Avalon entered the water. One eyewitness claimed to have passed the car prior to the accident and been unable to see a driver sitting up.

More troubling is the insinuation in the media by the driver's widow that the car had been taken several times to Texas Toyota of Grapevine for unintended acceleration with no problem found. The family's attorney, Randy Roberts of Tyler, Tex., repeated her allegations this past weekend in the *Fort Worth Star-Telegram*. However, Chris Grady, general manager of Texas Toyota, has already turned over the service records on that Avalon to both Toyota and Mr. Roberts. And those records show that the Avalon had been in their shop once and once only—for nothing more than an oil change. There were no complaints on any malfunction whatsoever.

As it turns out, no Toyota dealer in the whole South Central region had ever had any complaints about unintended acceleration, before this story broke nationally. At the Gulf States Toyota mid-winter meeting, attended by more than 150 dealers, an official asked for a show of hands of any dealers who'd ever had such a complaint in their service department prior to this story breaking nationally. And in this closed meeting, according to three dealers who were present, not one dealer raised a hand.

Furthermore, why didn't Congress simply ask Toyota to provide a complete list of all warranty claims on this complaint made before the media made their serious allegations? That would have taken this issue out of the realm of speculation into one of hard facts.

FORGETTING THE QUESTION: IS IT TRUE?

If only to resolve the rabid focus on Toyota's problems, it's past time to turn this over to the engineers. Innuendo, emotion, and speculation are not how one resolves an issue such as this. Even in the hearings in Congress, it appeared that most witnesses were tied to safety advocates, litigation attorneys, and traumatized victims; that's like trying a case in court with no defense attorneys. The outcome is almost preordained.

Maybe that's the point.

Instead of endlessly repeating "the NHTSA has 3,000 or so listed complaints on this problem," the media should bear in mind that many cases in that number are not actually "complaints," per se. Continuing to use that statistic just keeps misleading the audience. So let's cull the reported number down to just the accidents, those that can't be explained fully, and study them.

There's no escaping the fact that many of the vehicle-blamed accidents reported were actually caused by driver error (something Toyota will never say out loud), and many of the owners of these automobiles know that. As noted before, brakes always win out over engines, even at full throttle; that has been tested and proved many times in the past 20 years, including recent *Car and Driver* tests on Toyotas. So, if someone claims a car was speeding out of control and the brakes refused to work, from an engineering viewpoint that claim is instantly suspect.

CUT TO THE BONFIRE

If Congress really wanted to get at the truth, they should have called disinterested third-party engineers to study and get their opinion on this case. Nobody believes Toyota, even if the final facts prove it's correct. Everyone believes the witnesses, even when the engineering evidence often disproves their testimony. It is impossible to come to a scientifically valid conclusion under those two circumstances, which is why many individuals involved in this issue have described the proceedings as "witch hunts."

Come to think of it, maybe that's exactly how the hearings should be run for full entertainment value.

Congress should reconvene the hearings in Salem, Mass. They could tie a Toyota to a long pole and dunk it into Beverly Harbor. If the Toyota sinks, then Congress will find the company guilty of all charges. But if the Toyota floats, we'll find the automaker innocent. This should be done in real time to get the maximum TV audience; although the outcome would, again, be predetermined, it should still be a ratings grabber.

The alternative is to let the mechanics and engineers do their jobs and either find the fault or give everyone a reasonable explanation for what happened. The only problem with that suggestion is it's already been done. And no one wants to accept the conclusions.

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