

Lawsuit Seeks Records from Toyota Investigation

Detroit — Concerned that regulators are dismissing electronic problems in Toyota vehicles, an auto safety firm said Tuesday that it had sued the federal government to get records of its investigation into the unintended acceleration of a Prius last year.

The freedom-of-information lawsuit by the firm, Safety Research and Strategies, said that the National Highway Traffic Safety Administration was withholding documents and videos that may depict an acceleration incident caused by electronic systems in a Prius instead of the floor mats or pedals covered by Toyota recalls.

The suit seeks transcripts, recordings, photographs and videotapes generated by a visit of two federal investigators to the home of a senior government official who had complained about sudden, unexplained acceleration of his own Prius.

According to a sworn statement by the official, Joseph H. McClelland, investigators visited his Chambersburg, Pa., home last May 17, documented the sudden acceleration problem and recorded evidence of it.

Although other Toyota owners have suspected that sudden acceleration was caused by electronic systems, federal regulators have said they have found no evidence of such a cause.

The lawsuit, filed on Monday in federal court in Washington, is the latest effort by Safety Research to force the government to release internal records that could cast doubt on whether it sufficiently investigated possible electronic problems in Toyota vehicles.

"This is all about transparency," said Sean Kane, co-founder of Safety Research, an auto consulting firm in Rehoboth, Mass. "This is an agency that selectively releases data that fits its narrative that electronics are not at fault in sudden acceleration."

The NHTSA confirmed on Tuesday that it did conduct an investigation of Mr. McClelland's Prius but said it did not find any link to known causes of unintended acceleration.

The agency closed a lengthy investigation of Toyota last year without finding defects in the company's electronic throttle systems.

Instead, the agency concurred with the auto maker's explanation that faulty floor mats and sticky accelerator pedals were causing Toyota's vehicles to suddenly accelerate out of control. A separate study

by the National Aeronautics and Space Administration also found no electronic defects.

Last week, a branch of the National Academy of Sciences said there was no evidence of electronic malfunctions in Toyotas. However, its report also concluded that federal regulators were ill-equipped to detect problems in the increasingly complex computer systems of modern automobiles.

Safety Research, which in the past has advised consumers suing Toyota, goes a step farther and contends that the NHTSA is ignoring acceleration complaints that cannot be explained by driver error or defective floor mats and pedals.

Mr. McClelland, an engineer and director of the Office of Electric Reliability at the Federal Energy Regulatory Commission, called the NHTSA after experiencing repeated incidents of unintended acceleration in his 2003 Toyota Prius.

The Prius, which had about 200,000 miles on it, was not included in Toyota's recalls of more than eight million vehicles worldwide in 2009 and 2010 for problems with floor mats and pedals.

According to a sworn statement given to Safety Research, Mr. McClelland was driving between his home and Washington on May 5, 2011, when the car's engine surged repeatedly, forcing him to shift into neutral, pull off the road and shut the vehicle off.

Mr. McClelland has not responded to requests for an interview. But in his statement, he described how his Prius "over-accelerated" several times on the 200-mile round trip.

"The engine started to rev — actually almost roaring — and the vehicle picked up speed," he said.

He noted that the accelerator pedal was neither stuck nor constrained by the floor mat. "The floor mat wasn't up against the accelerator pedal," he said. "I put my toe up against the back of the accelerator pedal to see if it was stuck. It was not stuck; it was lily up."

Each time the car sped up, Mr. McClelland said he was able to apply the brakes, turn the vehicle off and restart it. After researching the NHTSA Web site about Toyota's acceleration issues, he contacted the agency. Two investigators came to his home and accompanied him on a test drive of the Prius.

Mr. McClelland said the car over-accelerated three times and its electronic displays began blinking wildly. He noted that the investigators videotaped the events and inspected the floor mats for interference. At the end of the test, he said they