

STATEMENT OF DIANE K. STEED, ADMINISTRATOR,  
NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION,  
DEPARTMENT OF TRANSPORTATION,  
BEFORE THE SUBCOMMITTEE ON TELECOMMUNICATIONS, CONSUMER  
PROTECTION AND FINANCE, HOUSE COMMITTEE ON ENERGY AND COMMERCE,  
AUGUST 1, 1985

Mr. Chairman and Members of the Subcommittee:

Thank you for your invitation to appear before you today on the Ford Transmission case. Accompanying me are Jeffrey Miller, our Chief Counsel, and George Parker, our Associate Administrator for Enforcement.

I welcome the opportunity to discuss the Agency's efforts in this matter and our recent response to the petition of the Center for Auto Safety and others to reopen the investigation into the alleged failure of automatic transmissions installed in 1966 to 1980 vehicles manufactured by Ford Motor Company to hold or engage in the Park position. I denied the petition because there are not sufficient reasons to expect further investigation into this matter to result in a determination that the vehicles in question contain a defect within the meaning of the National Traffic and Motor Vehicle Safety Act.

The staff of NHTSA's Office of Defects Investigation prepared a report of its review of the information relevant to the agency's consideration of the petition. My decision to deny the petition

is based on the analysis contained in the Staff Report, on my judgment that no new engineering evidence has been developed, and that the additional data concerning incident, accident, and fatality trends tends to support earlier decisions to adopt and abide by the terms of the previous Administration's settlement agreement of December 30, 1980.

The original NHTSA investigation of this alleged defect was one of the most intensive inquiries in the agency's history. NHTSA's June 6, 1980 initial defect determination covered some 23 million 1970-1980 Ford vehicles with C-3, C-4, C-6 and Jatco automatic transmissions. Throughout the investigation, Ford vigorously denied the existence of any safety-related defect in the vehicles under investigation. Ford maintained then, and continues to maintain, that the reported incidents were attributable to drivers' failure to follow proper parking procedures rather than to any mechanical defect, and that the intense publicity surrounding the NHTSA investigation had created a false impression that such incidents occurred only in Ford vehicles.

No final determination of defect was ever made. After the initial determination and the subsequent public hearing, Secretary Goldschmidt decided to negotiate a settlement with

Ford that recognized the "human factors" involved in these transmission accidents. The settlement agreement, signed December 30, 1980, provided first that Ford send warning letters, equivalent to the notification prescribed for statutory recall campaigns under the Safety Act, to all owners of covered vehicles. These letters informed recipients of the agency's initial defect determination of June 1980 and reminded them of the proper procedures to follow when parking their cars--namely, to set the gear selector firmly in "park", turn off the engine and set the parking brake.

In addition, Ford agreed to send warning labels to those vehicle owners as continuing reminders to drivers to take the reasonable steps all drivers should take to secure their vehicles from unintended movement when parked. In return, the Department of Transportation agreed to close the case and not seek additional remedies against Ford in the absence of new information concerning the matter. Ford has estimated that 21 million letters and warning labels, about 88% of the total mailed, were in fact delivered to their intended recipients.

When the Center for Auto Safety and others challenged the validity of this settlement in 1981, the agency examined the data and reaffirmed its conclusion that the settlement was reasonable.

Both the United States District Court for the District of Columbia and the U.S. Court of Appeals for the District of Columbia Circuit affirmed the reasonableness of the settlement and upheld the Secretary's and NHTSA's authority to enter into this specific settlement. In ruling that the Secretary had not acted arbitrarily or abused his discretion in reaching the settlement, the U.S. Court of Appeals found that "the existence of a defect was not conclusively established" and that "[t]he Department would have faced great difficulties in sustaining its burden to prove the existence of a defect, because the interaction between the driver and vehicle seemed a critical factor in the transmission malfunctions." (Center for Auto Safety v. Lewis, 685 F. 2d 656, 663 (1982)).

In addition, Mr. Ralph Nader petitioned the agency in 1981 to reopen the investigation, which was denied in October of 1981; and the Center for Auto Safety requested reconsideration of this decision, which was denied in June 1982. The agency denied these earlier petitions because of a lack of any new evidence suggesting the presence of a safety-related defect. The available evidence indicated that there had been a noticeable decline in the rate of reported incidents, accidents and

fatalities following Ford's notification and warning label campaign.

The March 6, 1985, petition of the Center for Auto Safety and others, coming four years after Ford's 1981 campaign, offered the advantage of a somewhat greater perspective due to the passage of time. However, it did not provide evidence contradicting the agency's earlier assessments or suggest that the issues presented by the case are now any less difficult to resolve. The only information NHTSA has obtained or learned about since the settlement agreement consists of reports of accidents or incidents of both Ford and non-Ford vehicles which were previously unknown to the agency. This information does not support the allegation that "inadvertent movement" incidents are limited to 1966-79 Fords, or that such incidents were due to a vehicle defect.

In responding to the March 6 petition, the agency staff conducted an exhaustive analysis of available data which went far beyond a review and analysis of the evidence presented in support of the petition. We requested Ford to provide substantial new submissions, including updated incident and accident data. Ford provided this new data and also much beyond that requested. In addition, we requested and received from General Motors,

Chrysler, and American Motors information concerning their customers' experiences with so-called "park-to-reverse" incidents in their vehicles as well as any design changes which they might have undertaken since 1980. We reviewed and analyzed all of this information and other data sources to assist us, including NHTSA's Fatal Accident Reporting System (FARS) which affords an indication of accident rates free of bias due to publicity.

This review and analysis convinced me that "park-to-reverse" incidents occur among vehicles made by all major manufacturers. While reported incident rates for Ford vehicles have been higher than those for other manufacturers, this observation does not go beyond the initial determination of June 1980, which was vigorously disputed by Ford and which was settled by the Department in December 1980.

The March 6 petition urged us to consider Ford's 1980 design changes to automatic transmissions as a ground for further investigation. While the design changes were apparently intended to improve the function of the park apply systems in Ford vehicles, they do not, in and of themselves, constitute proof of a safety-related defect under the Safety Act. Moreover, when reported incident rates are normalized for vehicle population

size, the 1980 changes have not resulted in substantial reductions of incidents, raising a question about their appropriateness as a recall remedy, even if we were to find a defect in these vehicles.

Our overall review of the data suggests that the 1980 changes have not significantly influenced the rate of reported incidents. It therefore does not appear from the data we have that a recall campaign, in which a mechanical alteration of the vehicles' transmissions would be attempted, promises any greater reduction of "park-to-reverse" incidents than has already been accomplished by Ford's 1981 notification and warning label campaign pursuant to the settlement agreement.

No evidence presented since the date of the initial determination convinces me that a final defect determination is currently warranted or even likely if further investigation is undertaken.

The evidence also continues to support the inference that drivers who misposition their gear shift levers and who fail to take precautions such as turning off their engines and setting their parking brakes have contributed to "park-to-reverse" incidents. I must also note that the effect of the publicity

associated with this matter continues to make judgments concerning the differences in reported incident rates extremely difficult.

The overall trends in the data of reported incidents and accidents has continued downward since the date of the settlement. It is also noteworthy that the degree of difference between the rates of reported Ford incidents and reports of other manufacturers is smaller than it appeared in 1980.

I want to emphasize -- in the strongest terms possible -- that the agency will intensify its campaign to heighten the public's awareness of the importance of careful driving practices in preventing incidents of inadvertent vehicle movement. I believe that heightened publicity and information designed to increase public awareness of this problem can have a positive effect.

Given the new information that "inadvertent movement" incidents are common to all cars, we need to broaden as well as intensify our campaign. Therefore, I have directed our staff to identify new ways to focus public attention on this problem. These include appropriate materials for driver education programs and other general educational materials, including press releases and

background information for the news media. In addition, persons who contact the agency in writing or by calling our Auto Safety Hotline are advised of NHTSA's investigation and of the warning letters to owners that vehicles not properly set in "park" might slip into reverse without warning, and of the warning labels to remind drivers of the hazard of failing to secure their vehicles in park, apply their parking brakes and shut off their engines before leaving their vehicles.

This concludes my prepared statement. We would be pleased to try to answer any questions you may have.